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LESTER CROWN SECURITY CLEARANCE; 10-PERCENT REDUCTION IN SECURITY CLEARANCES; AND TRIDENT SUBMARINE PICTURES

HEARING

BEFORE THE

INVESTIGATIONS SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES

HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

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LESTER CROWN SECURITY CLEARANCE; 10-PERCENT REDUCTION IN SECURITY CLEARANCES; AND TRIDENT SUBMARINE PICTURES

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
INVESTIGATIONS SUBCOMMITTEE,
Washington, DC, Thursday, September 26, 1985.

The subcommittee met, pursuant to notice, at 10:08 p.m., in room 2212, Rayburn House Office Building, Hon. Bill Nichols (chairman of the subcommittee) presiding.

OPENING STATEMENT OF HON. BILL NICHOLS, A REPRESENTATIVE FROM ALABAMA, CHAIRMAN, INVESTIGATIONS SUBCOMMITTEE

LESTER CROWN SECURITY CLEARANCE

Mr. NICHOLS. The subcommittee will come to order.

The subcommittee is meeting today to examine three separate issues, all of which relate to national security and protection of sensitive information.

Circumstances surrounding Lester Crown's security clearance, and the release of the photographs of the Trident submarine, were developed during the subcommittee's investigation of General Dynamics.

The 10-percent reduction in security clearances is the Department's initial response to the proliferation of security clearances in industry, and increase in the number of espionage cases over the past several years.

So, our first issue this morning is the security clearance granted to Lester Crown. Lester Crown, as General Dynamics' biggest stockholder, and a member of the board of directors, plays a large role in corporate decisionmaking.

In 1972, Mr. Crown applied for a secret security clearance, as president and chief executive officer of the Material Service Corp., subsidiary of General Dynamics. He was granted, however, a top secret clearance in July 1974.

At the time of his application for clearance, Mr. Crown was implicated in several related bribery and kick-back schemes. Initially, by furnishing $8,000 of his personal funds, in an effort to influence members of the Illinois State Legislature to pass legislation favored by Material Services Corp., and subsequently furnishing $15,000, in an additional attempt to obtain passage of identical legislation.

During 1972 and 1973, employees of Material Services Corp., submitted and received payments on false and inflated expense ac-

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counts. The false expense payments were then used to reimburse Mr. Crown for the bribes previously mentioned.

In April 1974, Mr. Crown was given transactional immunity, and testified before a Federal grand jury. In December of that year, an indictment was returned, in which Crown was named as an indicted—unindicted coconspirator of the bribery scheme.

In a separate proceeding, the Securities and Exchange Commission issued a permanent injunction in 1977, charging Lester Crown and General Dynamics with submission of false proxies for 197—

The subcommittee will stand in recess until the power is fixed.

[Whereupon, the subcommittee recessed.]

Mr. NICHOLS. The subcommittee will come to order.

In April 1974, Mr. Crown was given transactional immunity, and testified before a Federal grand jury. In December of that year, an indictment was returned in which Crown was named unindicted coconspirator in the bribery scheme.

In a separate proceeding, the Securities and Exchange Commission issued a permanent injunction in 1977, charging Lester Crown and General Dynamics with submission of false proxies for 1974, 1975, 1976. These proxies failed to disclose Crown's involvement in the 1972 bribery scheme, and his subsequent reimbursement through false expenses vouchers.

Our hearing today will examine how Mr. Crown was able to obtain a top secret security clearance, when his records clearly show that he only applied for a secret clearance. More importantly, what are the Department of Defense's reporting requirements involving potential illegal activity, and the granting of a security clearance.

Was Mr. Crown required to disclose his involvement in a criminal scheme? Why did the Defense Investigative Service not know of the bribery scheme? What responsibilities does General Dynamics have to report adverse information?

Today, we have Ms. Kathleen Buck, of the Office of General Counsel, Department of Defense, with us.

Do you have a prepared statement?

PREPARED STATEMENT OF HON. BILL NICHOLS

LESTER CROWN

The subcommittee is meeting today to examine three separate issues, all of which relate to national security and protection of sensitive information. The circumstances surrounding Lester Crown's security clearance and the release of the photographs of the Trident submarine were developed during the subcommittee's investigation of General Dynamics. The 10-percent reduction in security clearances is the Department's initial response to the proliferation of security clearances in industry and increase in the number of espionage cases over the past several years. Our first issue is the security clearance granted to Lester Crown.

Lester Crown as General Dynamics' biggest stockholder and a member of the board of directors plays a large role in corporate decisionmaking. In 1972, Mr. Crown applied for a "secret" security clearance as president and chief executive officer of the Material Service Corp., a subsidiary of General Dynamics. He was granted a "top secret" clearance in July 1974.

At the time of his application for a clearance, Mr. Crown was implicated in several related bribery and kickback schemes, initially by furnishing $8,000 of his personal funds in an effort to influence members of the Illinois State Legislature to pass legislation favored by Material Services Corp., and subsequently furnishing $15,000 in an additional attempt to obtain passage of identical legislation. During 1972 and 1973, employees of Material Services Corp. submitted and received payments on

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false and inflated expense accounts. The false expense payments were then used to reimburse Crown for the bribes previously mentioned.

In April 1974 Mr. Crown was given transactional immunity and testified before a Federal grand jury. In December of that year, an indictment was returned in which Crown was named as an unindicted coconspirator in the bribery scheme. In a separate proceeding the Securities and Exchange Commission issued a permanent injunction in 1977 charging Lester Crown and General Dynamics with submission of false proxies for 1974, 1975, and 1976. These proxies failed to disclose Crown's involvement in the 1972 bribery scheme and his subsequent reimbursement through false expense vouchers.

Our hearing today will examine how Mr. Crown was able to obtain a "top secret" security clearance when the records clearly show that he only applied for a "secret" clearance. More importantly, what are the Department of Defense's reporting requirements involving potential illegal activity and the granting of a security clearance? Was Mr. Crown required to disclose his involvement in the criminal scheme? Why did the Defense Investigative Service not know of the bribery scheme, and what responsibility does General Dynamics has to report adverse information?

Today we have Kathleen Buck of the Office of General Counsel, Department of Defense, and Mr. Thomas O'Brien, Director, Defense Investigative Service.

STATEMENT OF KATHLEEN BUCK, ASSISTANT GENERAL COUNSEL (LEGAL COUNSEL) DEPARTMENT OF DEFENSE

Ms. BUCK. Yes sir, I do.

Mr. NICHOLS. Will you be talking from that?

Ms. BUCK. Yes, I would be. I have a very short prepared statement, and with your permission, I will read that.

Mr. NICHOLS. Without objection, it will be entered in the record. You may proceed.

Ms. BUCK. Thank you Mr. Chairman, and members of the subcommittee. I am pleased to appear before you today to discuss the Industrial Security Program. Specifically, you requested a report on the status of the security clearance of Mr. Lester Crown.

As you know, Mr. Crown is a member of the board of directors for General Dynamics, and as such, has access to classified information needed by the company to perform work under certain Defense contracts. He has held his security clearance since 1974.

In 1972, as you indicated, Mr. Chairman, Mr. Crown was serving as the president of Material Services Corp., which is the subsidiary of General Dynamics. According to his own admissions he paid $8,000 and $15,000 of his personal funds to a larger fund that was being accumulated to bribe certain members of the Illinois Legislature. Mr. Crown was subsequently named as an unindicted coconspirator in 1974. Then, after being granted immunity by the Government, Mr. Crown testified at the trial in 1976, in which several legislators and others were convicted.

Contrary to the provisions of the Industrial Security Manual, General Dynamics did not provide to the Department of Defense, any information concerning Mr. Crown's involvement in this bribery scheme. It was not until April 1982, when Mr. Crown sought a concurrent security clearance with TWA, that this incident was brought to our attention. At that time, Mr. Crown reported on his security clearance application that he had entered into a consent decree with the Securities and Exchange Commission in 1977, to correct proxies of General Dynamics in 1974, 1975, and 1976.

These proxies failed to disclose completely Mr. Crown's involvement in a bribery scheme in 1972.

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After a followup investigation, the security clearance adjudicators of the Defense Industrial Security Clearance Office, determined in Feburary 1983, that Mr. Crown's security clearance should be continued. The basis for that decision is unclear, however, because decisions at that level required no hearing, or formal written adjudicatory opinion.

In February 1985, Secretary Weinberger was apprised by a Member of Congress of Mr. Crown's involvement in the bribery scheme. He immediately directed that a background investigation be conducted by the Defense Investigative Service, in order to determine whether Mr. Crown's security clearance should be revoked. The results have been forwarded to the Directorate for Industrial Security Clearance Review. The investigation covered the time period from 1972 to the present. This investigative report has been examined along with Mr. Crown's prior admitted misconduct, under the procedures set forth in a new DOD directive and adjudication policy guidelines, applicable to cases before the Directorate for Industrial Security Clearance Review. The new guidelines and policies reflect our determination to strengthen significantly the security posture of our industrial security program, by being more selective in the award of personal security clearances. Convicted felons, and those who admit to felonious conduct, should not, absent compelling reasons, be entitled to receive a security clearance. Accordingly, on September 18, 1985, Mr. Crown was notified by the Department of Defense that it was initiating procedures to revoke his access to classified information. The procedures set forth in the existing directive will provide Mr. Crown with an impartial forum in which to present his case, and in proceedings that afford him due process of law. As these administrative proceedings are pending, further elaboration on the details of Mr. Crown's case would be inappropriate at this time. But, to the extent I can, I will try to answer questions for you in an open forum here, today.

Thank you, very much.

PREPARED STATEMENT OF KATHLEEN A. BUCK

Mr. Chairman and members of the Subcommittee, I am pleased to appear before you today to discuss the Industrial Security Program. Specifically, you requested a report on the status of the security clearance of Lester Crown. As you know, Mr. Crown is a member of the board of directors for General Dynamics and, as such, has access to classified information needed by the company to perform work under certain defense contracts. He has held his security clearance since 1974.

In 1972, Mr. Crown was serving as the president of Material Service Corp., a subsidiary of General Dynamics. According to his own admissions, in March and October 1972, he gave $8,000 and $15,000 of his personal funds to a larger fund that was being accumulated to bribe certain persons in the Illinois Legislature in an attempt to influence the passage of a particular piece of legislation. Mr. Crown was subsequently named as an unindicted coconspirator in 1974. After being granted immunity by the Government, Mr. Crown testified at the trial in 1976 in which several legislators and others were convicted.

Contrary to the provisions of the Industrial Security Manual, General Dynamics did not provide to the Department of Defense any information concerning Mr. Crown's involvement in this bribery scheme. It was not until April 1982, when Mr. Crown sought a concurrent security clearance with TWA, that this incident was brought to our attention. At this time, Mr. Crown reported on his security clearance application that he had entered into a consent decree with the Securities and Exchange Commission in 1977 to correct proxies of General Dynamics in 1974, 1975, and 1976. These proxies failed to disclose completely Mr. Crown's involvement in the bribery scheme in 1972. After a followup investigation, the security clearance

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adjudicators at the Defense Industrial Security Clearance Office determined in February 1983 that Mr. Crown's security clearance should be continued. The basis for that decision is unclear, because decisions at that level required no hearing or formal, written adjudicatory opinion and because the individual primarily responsible for this decision is now deceased.

In February 1985, Secretary Weinberger was apprised by a Member of Congress of Mr. Crown's involvement in the bribery scheme. He immediately directed that a background investigation be conducted by the Defense Investigative Service in order to determine whether Mr. Crown's security clearance should be revoked. The results have been forwarded to the Directorate for Industrial Security Clearance Review. The investigation covered the time period of 1972 to the present. This investigative report has been examined along with Mr. Crown's prior admitted misconduct under the procedures set forth in a new DOD directive and adjudication policy guidelines applicable to cases before the Directorate for Industrial Clearance Review. The new guidelines and policies reflect our determination to strengthen significantly the security posture of our Industrial Security Program by being more selective in the award of personal security clearances. Convicted felons, and those who admit to felonious conduct, should not, absent compelling reasons be entitled to receive a security clearance. Accordingly, on September 18, 1985, Mr. Crown was notified by the Department of Defense that it was initiating procedures to revoke his access to classified information. The procedures set forth in the existing directive will provide Mr. Crown with an impartial forum in which to present his case and in proceedings that afford him due process of law. As these administrative proceedings are pending, further elaboration on the details of Mr. Crown's case would be inappropriate.

I am, of course, prepared to answer your questions on issues discussed in my statement.

Mr. NICHOLS. OK, Ms. Buck, I realize we are, in some respects, beating a dead horse here. We're talking about something that occurred 14 years ago. The reason I felt it ought to come before the committee is because of the fact that security clearances are very much on the front burner now due to some things that have happened. I want to go back 14 years and ask you how in the world did he receive a top secret clearance? All he asked for was a secret clearance. Why did he get a top secret one ?

Ms. BUCK. I think that's a good question. I think there is some confusion in our records on this issue, and Mr. Tom O'Brien, the Director of the Defense Investigative Service, who is going to testify later today, as I understand, may want to elaborate on this further; but I was advised that in 1972, the papers that Mr. Crown filled out were for a secret clearance. But we believe that what happened was, at some point in the review process in Columbus, OH, at the Defense Industrial Security Clearance Office, one of the staff people there, determined that it was incorrect for him to have applied for secret, that he should have applied for top secret clearance. There's actually very little difference between the form one fills out for secret and top secret, and we believe that it was one of the staff members who inserted, in handwritten form, that this was a request for top secret, to go ahead, and it was necessary to initiate all of the investigative requirements for a top secret clearance.

Mr. NICHOLS. Is the current procedure with your department such that a member of the staff can alter that, and raise it from secret to top secret?

Ms. BUCK. Well, this would generally only be done at the request of the company, based on the need of the individual for access to information at that level. But, it's not surprising that if General Dynamics had had, at that point in time, top secret contracts, that they would want to apply for top secret clearance for a member of the board of directors.

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In terms of our granting him the top secret clearance, of course, at the time the clearance was granted, we did not have any information regarding this bribery incident. So that was not a part of the——

Mr. NICHOLS. I'm not sure whether you answered my question or not. I'm talking about 1985. Suppose a man applies for a secret clearance. Can some staff member of your department over there say, well, gee, this man really needs top secret——

Ms. BUCK. I would——

Mr. NICHOLS. Could he change that on his own?

Ms. BUCK. I would think that that's highly unusual; but that office that processes those initial papers is under the direction of the Defense Investigative Service, rather than my office, so, if you don't mind, I'd like to defer to Mr. O'Brien. He's in the——

Mr. NICHOLS. Is he present yet?

Ms. BUCK. Yes sir; he is.

Mr. NICHOLS. If you can answer that question, I'd like to have you do so.

Mr. O'BRIEN. Yes; sir.

Mr. NICHOLS. Would you identify yourself.

Mr. O'BRIEN. Yes, Mr. Chairman. I'm Thomas J. O'Brien, Director of the Defense Investigative Service.

The answer to your question is no. In 1985, and in 1974, a clerical person could not just arbitrarily raise the level of the clearance. First off, there must be the investigative prerequisite which, for a top secret clearance, is a background investigation.

In the case of Lester Crown, there was a background investigation that had been accomplished, and he was appointed as a member of the board of directors of General Dynamics in early 1974. Under our policies then and now, as a member of the board of directors of a corporation with a top secret facility clearance, he would have to have a top secret clearance. He was granted a top secret clearance, because his position as a member of the board of General Dynamics required it, and the necessary background investigation to support that clearance had been accomplished.

Mr. NICHOLS. Well, I have a copy of his application, back in 1972. The staff has called to my attention the application,"security clearance requested: secret."

Mr. O'BRIEN. I understand that you have that. Our records for this period of time are not that good, and we do not have precise records——

Mr. NICHOLS. I realize——

Mr. O'BRIEN. As a matter of policy—I think it's more important than the form. As a member of the board of directors of a cleared corporation, he would have to have top secret clearance, and he was given it after the necessary investigation was accomplished.

Mr. NICHOLS. All right. Please stay at the table a minute because I want to ask you another question here. In 1972, he made application for this. Ten years later, in 1982, you say you didn't know anything about his background in 1972, but these indictments, and so forth, were charged against him in 1972. Do you depend on the individual, or do you depend on General Dynamics, in this case, to furnish you with information that,"well, this guy is under indictment." Surely you do enough checking on your own to find out.

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Ten years later, you seem to be saying, "Well we didn't know anything about this, and we found it out only in 1982."

Mr. O'BRIEN. Well, to answer your first question, no, we do not just depend on what the individual or the company tells us. We certainly do additional investigation.

During the period of time, in the early 1970's, when that investigation was conducted, investigations were done by the military departments, with the Naval Investigative Service having conducted this one. That was before the Defense Investigative Service was given the responsibility. I don't know why the Navy did not develop information concerning the indictment back in 1972. I can speculate that the information was simply unavailable. We only investigate at the time we clear; there's not a continuing investigation process. We rely upon the company to report things that develop subsequent to the initial clearance. This case did not come to our attention again until 1982, when there was an application for a clearance in connection with his position on the board of directors of TWA at that time on his clearance application for the transfer of clearance to TWA, he indicated that he had had an earlier problem. He told us about his involvement with the Securities and Exchange Commission.

That's why we started looking at it at that time.

Mr. NICHOLS. Mr. Carney.

Mr. CARNEY. What you're saying, Mr. O'Brien, is that you have no records of the procedures that took place when he initially applied for clearance, is that correct?

Mr. O'BRIEN. Our records are sketchy for that period of time. We have some records, but not complete records.

Mr. CARNEY. Today, if a person were to apply for a security clearance, and you became cognizant of his background, and it was a similar background, and he was on the board of directors of any corporation doing business with the Defense Department, would he have gotten a security clearance?

Mr. O'BRIEN. Well, the Defense Investigative Service would have referred a case like that to the Directorate of Industrial Security Clearance Review, which is under the Department's General Counsel, for the processing for denial of clearance.

Mr. CARNEY. You didn't answer my question. Would he be given a security clearance?

Mr. O'BRIEN. Well, I'll defer to Kathleen Buck on that, because her office makes those decisions.

Ms. BUCK. Under our procedures, when a case is referred to my program with adverse information, we first provide the person with a statement of reasons, which notifies him of the basis on which we intend to revoke the person's clearance. There is no decision at that point. The person is then entitled to a hearing. We have an impartial hearing examiner who examines all of the facts, and in this case——

Mr. CARNEY. Who arbitrarily could have allowed him a clearance.

Ms. BUCK. I think in this case, in my judgment, it's clear that we would have issued a statement of reasons to hold a hearing.

Mr. CARNEY. So then, today, this man could get a clearance.

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Ms. BUCK. No, no. I'm not saying that. I'm saying that because of the adverse information in this case, either in 1974 or today, we have determined that we should at least hold a hearing.

Mr. CARNEY. Well, I admire your talents as a lawyer. You are not answering my question. I am trying to ascertain one thing. Would this person, or a person with a similar background, applying for a clearance today, have an opportunity to get one?

Ms. BUCK. The problem with my answering that question is that the man has not had a hearing yet. And, if I would give you my own judgment on that——

Mr. CARNEY. I would simply like to know, would a felon be able to get a clearance, under those circumstances?

Ms. BUCK. Under our policy today, unless there are compelling national security reasons, someone with a felonious background would not.

Mr. CARNEY. Was that same policy in effect back in 1972?

Ms. BUCK. No, sir, it was not. We have general adjudication guidelines that were in effect then, and are in effect today; but we have taken action, we think, to strengthen our overall security program by making some needed changes in that adjudication policy.

Mr. CARNEY. Could I assume, without having knowledge of this case, in particular, because we do not have the records, evidently, that those who were in a position to issue him a security clearance were cognizant of his background when they said yes back in 1974?

Ms. BUCK. The people who made that decision back in 1974 were not in my office. They were in Mr. O'Brien's office, but——

Mr. CARNEY. I frankly do not care whose office they were in. We are trying to find out whether back in 1974—and evidently we cannot, because your recordkeeping is such that we cannot refer to it. All I am trying to find out is, back in 1974, could someone with this background have received a clearance, or did we just not find out about the man's background. That's all I am trying to find out.

Ms. BUCK. It is very difficult to say what the outcome would have been, because they would have taken into consideration any mitigating factors. For example, cooperation with the Government, and that he did cooperate with the Government in testifying. He was granted immunity.

But, do we consider this very serious? Indeed, we do. This is why we have made the change in the adjudication policy, so that we can very carefully scrutinize cases which involve felonies.

Mr. O'BRIEN. I wonder if I might point out, that in 1959, there was a pretty important decision, in the case of *Green* v. *McElroy*, which called the Department of Defense to task, because the procedures that were in effect at that time did not provide due process of law, or at least did not have the proper authoritative basis.

As a result of that Supreme Court decision, the whole policy was revamped. We went through a period of time when, the Department was leaning over backwards to ensure that everybody got their day in court. Over the years this has not been a clear issue. There were times when clearances were granted in the past that might not appear appropriate under today's scrutiny. But you have to look at it over a long span of time, and consider the pressures the Department was under, by virtue of Court decisions, and other factors.

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Mr. CARNEY. Well, even after the 1959 Court decision, is it not true that the granting of a security clearance is still arbitrary?

Mr. O'BRIEN. It is not arbitrary at all. There is a standard. The standard is that it must be clearly consistent with the national interest that was in effect at that time, as it is now. But there has been a lot of attention on this adjudication process. It is a balancing of the equities; the rights of the individual, and the rights of the Government. It is not an easy issue. It is a very difficult issue that has to be decided.

Mr. CARNEY. Are you trying to tell me that a person with a checkered background, such as the one we are looking at today, has the right to a security clearance?

Mr. O'BRIEN. The Supreme Court decided it was their right.

Mr. CARNEY. The hearing—the Supreme Court said they had the right to a hearing—to due process. Not to a security clearing——

Mr. O'BRIEN. I agree.

Mr. CARNEY. That decision is still yours. And, frankly, I think in 1974, someone messed up, and what we're trying to find out here——

Mr. O'BRIEN. We didn't have that information in 1974. The information was not available to the people who made that decision in 1974.

Mr. CARNEY. Well, that's the point that I am trying to get at. And you could not tell us that. I would like to know why information of this nature was not available.

Mr. O'BRIEN. All I can tell you is there was an investigation conducted, at that period of time, by the Navy, and they did not develop it. Now, all I can tell you is on the record. There is no way in the world that I can——

Mr. CARNEY. I appreciate what you are saying, but I can say, for the record, it is frightening to me, that someone who was in the court system, who was a nonindicted coconspirator 2 years earlier, and those hearings were going on during the time he was being investigated, that our investigators did not pick it up, that is frightening.

Mr. O'BRIEN. Well, it is frightening. There are some jurisdictions where we have a tremendous problem trying to get access to criminal justice records. There is a bill pending in the Congress right now, S. 1347, which would help us do that and make our needs known. We operate in a difficult area. But, there are some States where it is not possible for us to get access to criminal justice records, even today.

Mr. NICHOLS. Mr. Mavroules.

Mr. MAVROULES. Thank you very much, Mr. Chairman. I am going to proceed along the line Mr. Carney has started here, this morning. Then you probably wonder why, when we have procurement reform legislation on the floor, it passes by 413. It is the ambiguity. We are not going to point the finger at you two. We are trying to get some information from you; but it is the ambiguity of some of your answers that places us in a very defensive situation, and therefore we have to take the action.

It is absolutely ridiculous, absolutely ridiculous to give to this kind of an individual the type of clearances that he had, because he rolled over to save his own skin. Who in the hell are we trying

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to kid? That is the truth. He just rolled over. He pointed the finger at some other individuals to save his own rear end, and this fellow had clearances, right up through a particular number of years. I think that is insane.

The point is what can we do today. You know there is nothing we can do about this fellow. But what are we doing today—what are you people doing today? Rather than have the Congress legislate—and sometimes we do legislate much too much, and therefore it is going to have an adverse effect on the entire system. We must have more candid, specific remarks on the questions they are asking you. Otherwise, we are going to take the action. Then, before you know it, we have gone too far in reform, and it screws up the whole system.

I hope you understand me, and what place this is. Now, let me just ask a couple of questions, here.

Let's go to General Dynamics. What responsibility did it have in reporting the adverse information? When did this requirement first come about, and did it, in fact, report as required? Can you answer that for me?

Ms. BUCK. I will go ahead. At the time this incident arose, back in 1974, there was an obligation to report, and General Dynamics failed to report the information.

Mr. MAVROULES. Repeat that, please.

Ms. BUCK. Back in 1974, at the time this incident occurred, there was an obligation in our Industrial Security Manual, for the company to report this type of information—report adverse information, and they did not do it.

Mr. MAVROULES. Did they do it, subsequently, down the line? After 1974?

Ms. BUCK. I will defer to Tom O'Brien, but my understanding is that they did not report on any of this information until Mr. O'Brien wrote them a letter.

Mr. MAVROULES. OK. What did you do about it? They were required by law to report it. They did not report it. What did we do about it?

Mr. O'BRIEN. In March, I wrote a letter to the chairman of the board for General Dynamics, and told him that obviously he should have made this report, and I wanted to know why he didn't. I received a letter back from him, which I considered to be an unsatisfactory answer. He gave me two reasons for not reporting: The corporate security director was unaware of it. And, he said, the Industrial Security Manual provision was not clear on the point that it had to be reported.

Mr. MAVROULES. Mr. O'Brien, you are correct. But the point is we do have a process of law, here. They did not report it. Did you recommend any penalties against General Dynamics?

Mr. O'BRIEN. I did not recommend penalties——

Ms. BUCK. We have a problem, here, I think, in that we don't have legal authority to sanction the company. The company is required to submit these reports to us, pursuant to the Industrial Security Manual, which is built into their contracts with us. So, in effect, they have violated one aspect of their contracts when they do not do this. But, in terms of the real sanction, I do not think we have adequate authority to sanction a company in this type of case.

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Mr. MAVROULES. Are you going to make any recommendations to Congress, so that we can make a law for you?

Mr. O'BRIEN. Well——

Mr. MAVROULES. Or, are we going to have to do that again? You see, we have gone so far in procurement reform that, if you take a poll throughout the country, 80 percent of the people throughout the United States are saying clean up your act in the Defense Department. And we are forced to do that. Don't you feel it is better if you make your recommendations to us, so we can make them laws.

Mr. O'BRIEN. I will tell you what we do have. We do have a procedure, whereby we can declare a company unsatisfactory, or a particular facility of that company unsatisfactory, if we feel that they are not complying with the fundamental requirements of the Industrial Security Manual. This is one case that is very serious. But in our judgment, the fact that this report was not made in 1974 is not sufficient to recommend that we put this company out of doing classified business in 1985. It is a judgment matter. The company has been under scrutiny, and I am going to enter a statement in the record to explain the things we have done. The way we try to work with them is to correct their deficiencies. Our aim is not to punish the company. That is not our business. Our aim is to ensure that they safeguard classified information properly, and all of its ramifications, to include ensuring all of their people are trustworthy.

Mr. MAVROULES. I will be waiting for your testimony later. Thank you.

Mr. NICHOLS. Mr. Kasich.

Mr. KASICH. Let me follow up on that, Mr. O'Brien. Have you ever sanctioned a company for violating these clearance rules?

Mr. O'BRIEN. Sanctioned a company? Yes. By sanction we have declared facilities unsatisfactory; yes, sir.

Mr. KASICH. Which ones were those?

Mr. O'BRIEN. Well, there have been some facilities of General Dynamics, and a number of others that provide direct——

Mr. KASICH. Some of the General Dynamics facilities were, you say—what was the word you used?

Mr. O'BRIEN. Unsatisfactory.

Mr. KASICH. You called them unsatisfactory? They lost all their clearances?

Mr. O'BRIEN. Well, what they lose when we declare them unsatisfactory is their capability to be awarded a new classified contract. Unless they correct their situation, they would not get any more work. The practice has been that when a deficiency has been found, a company will generally correct the problem. Then they are back in business.

Mr. KASICH. Let me ask you the most important question, I think, to be asked today. In light of the fact that one of the Walkers had had a problem—had violated the law—and I am aware of the fact that you have difficulty in some States—I think California and New Jersey, with having States cooperate with you in terms of learning about people's records; but in light of the fact that you had a Walker, and you have this case, and the concern that we are seeing around the world with spying, do you think that we have an

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unsatisfactory system in dealing with security clearances, a system that is, perhaps, endangering the national security of this country?

Mr. O'BRIEN. I do not think we have an unsatisfactory system for dealing with our personnel security. I do not think our system will prevent spying 100 percent. We have had spying since the history of mankind. I think it would be naive to think that we can develop a system that precludes spying, particularly when we are talking about the Department of Defense that has over 4 million people cleared——

Mr. KASICH. That is the point. I am asking, Mr. O'Brien, are there too many people being cleared?

Mr. O'BRIEN. Well, we are taking steps to reduce that. The Department of Defense is awfully big, with tremendous responsibilities, so we are always going to have a lot of people cleared.

Mr. KASICH. But we are just taking a step to reduce the total number by an arbitrary 10-percent figure. You just finished responding to somebody earlier that we did not have any records—I think it was to the chairman—well, we really did not have any records. I mean, you had to plead ignorance because you did not have any records. Now, you have a big job. Now you are saying that we have so many people that need to be cleared that we have a difficult time getting through this process. We have a problem, don't we?

Mr. O'BRIEN. We have a problem.

Mr. KASICH. We have a serious problem that jeopardizes the national security of this country. Do we, or do we not?

Mr. O'BRIEN. We have a serious problem.

Mr. KASICH. Because of the number of people we are clearing.

Mr. O'BRIEN. Yes, sir.

Mr. KASICH. Does it, in fact, endanger the national security of this country, the current system that we are operating under?

Mr. O'BRIEN. Well, I don't agree with you.

Mr. KASICH. Then how did the Walkers get cleared?

Mr. O'BRIEN. Well——

Mr. KASICH. In other words, every case I bring out, you're going to say, well, it just happens.

Mr. O'BRIEN. I don't think it "just happens." It is horrible when it happens. But I think, realistically, that the Department of Defense, in building up our high-technology weapon systems, involves a lot of highly classified material. So, it is understandable that the number of clearances and the number of contractors have increased. We are trying to keep that within manageable bounds. We are trying to put more attention on classification management, to ensure we identify just what is classified. But, every year we have to clear an awful lot of people. Unfortunately, it is hard to cope with that.

Mr. KASICH. Mr. O'Brien, it is not my intent to badger you, because you have a job you are trying to carry out. I just want you to admit to this subcommittee that you have problems over there. That you don't have the capability to confidently say that you are screening people, and checking people, who are going to have access to the highest secret information that you can get in this country, and be certain, as you sit there, that we are doing a good job.

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Mr. O'BRIEN. Well, this year the Defense Investigative Service will run about 205,000 background investigations. We have a very dedicated and competent group of agents that are conducting these investigations. But, I do not think anyone could say that of 205,000 investigations that we can guarantee that every one is 100 percent perfect. I do not think it is possible, and I just would not feel in good conscience that I could tell you that——

Mr. NICHOLS. The next issue that we are going to cover addresses some of the questions that you might want to discuss.

Mr. McCurdy.

Mr. MCCURDY. Thank you, Mr. Chairman. I want to commend the chairman and the ranking member in this subcommittee for their efforts to delve into this issue. Since I chair the Oversight Subcommittee of the Intelligence Committee, this is an area we have been tracking, on counterintelligence, counterespionage, for some time; and these cases that our friend, Mr. Kasich has eluded to, have been under review for a period of time. I think I have a fair appreciation of the problem that you are dealing with.

Quite frankly, Mr. Chairman, I think this next series of questions is, to me, the very, very important one, and that is the impact of the Secretary's decision to reduce all clearances by 10 percent, and the impact that it is going to have on the small businesses, and whether or not you can just take an arbitrary figure and push it down through the system. To me, that is a very, very important issue, and I think the time is well spent on that.

I apologize for coming in late, but the one issue that continues to bother me, and I just want a clarification, in relation to the Crown investigation, is who makes the designation of the type of clearance—the level of clearance that a person should be granted? I think the chairman raised the question earlier as to who makes the designation whether it is secret versus top-secret, or confidential, after that? The requesting agency, or——

Mr. O'BRIEN. First of all, the level of a contract might be confidential, secret, or top-secret. That would be the first determination. When the Department of Defense awards a contract, we identify the level of classification of the information involved—let's say at the Secret level. Then, when we clear a company to perform on a secret contract, one of our policies is that all of those people who comprise top management—chairman of the board, board members, president, and so forth, must be cleared to the level of the facility clearance—to the Secret level. After that is done, the other people in the company are cleared only to that level which they will be required to have access to in order to perform on the contract. Some might have to have Secret, others would get by with Confidential, and then some would not need a clearance at all, because they would not have access.

Mr. MCCURDY. But if the request had been for a secret clearance, then who made the determination that he should have a top secret clearance——

Mr. O'BRIEN. In Lester Crown's case, since he was a member of the board of directors, and the facility had a top secret clearance, as a matter of policy he would have to have a top secret clearance.

Mr. MCCURDY. So it was a facility-wide clearance.

Mr. O'BRIEN. Yes, sir.

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Mr. MCCURDY. And that's true on every board of every corporation?

Mr. O'BRIEN. Yes; the policy is that at least the quorum of the board must be cleared. And then, if a company wants to exclude certain members of the board from access, we permit that.

In the case of General Dynamics, they decided that all members of their board should be cleared, because they discuss classified information at board meetings. Therefore, all have to be cleared, to the level of the facility clearance.

Mr. MCCURDY. Does that include compartmenting?

Mr. O'BRIEN. No. Not necessarily——

Mr. MCCURDY. Were there any other——

Mr. O'BRIEN. No.

Mr. MCCURDY. There were no clearances. This facility is——

Mr. O'BRIEN. Right. The facility clearance just goes to the top secret level.

Mr. MCCURDY. Well, the question I have, is if you have a corporation, such as a—well, we will not take General Dynamics, take another. Take a Lockheed, which does work for the intelligence community, also. Does a board of directors, that has oversight over the broad corporation, have clearances for those code word——

Mr. O'BRIEN. I cannot attest to code word.

Mr. MCCURDY. Departments or areas?

Mr. O'BRIEN. We only operate on the collateral side.

Mr. MCCURDY. Who makes that determination, though, as to board members?

Mr. O'BRIEN. Each clearing activity that is involved in awarding the—special intelligence is responsible for that, themselves. But that is not part of a facility clearance, per se.

Mr. MCCURDY. OK. Mr. Chairman, I would request, then, that we have someone who is capable of answering that question, at some point in time, appear before the committee. And, if we have to go into an executive session to get that answer, I would move that we do that, because I think this is an area that we should not overlook.

Mr. NICHOLS. Thank you. Your suggestion is well made. We will come back to that one.

I just have one final question, here. Eight days ago, on September 18, your people decided that Mr. Crown perhaps was not entitled to top secret clearance. You come to us today and tell us that you notified him, 8 days ago, that you are initiating procedures to revoke his access to classified information. Now, can you tell me how that is going to work? Here is a board of directors, sitting around a table in the board room, talking about the F-16, or talking about the Trident submarine, the largest defense contract we have. I do not know how many of them have a secret clearance, but I am supposing that in this board room many, maybe all of the others, have secret clearances. And yet, one board member, the largest stockholder in the company, and you folks say no, you cannot give him clearance.

I am not trying to make a case for him. I am not getting out the crying towel for Mr. Crown, you understand. I am just wondering how, in actual practice, you are going to enforce that.

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Ms. BUCK. Well, what happens next—once we issue the statement of reasons which, as you indicated, occurred last week—now, Mr. Crown has 20 days within which to respond in writing to us. If he fails to respond, we, of course, would simply administratively terminate his clearance. And, at this point in time if his clearance was terminated, then he would——

Mr. NICHOLS. I am wondering how he effectively serves as a board member——

Ms. BUCK. At this point in time——

Mr. NICHOLS. But that is not your problem, is it?

Ms. BUCK. No, no, he could not serve on the board as things stand right now. Isn't that correct, Tom?

Mr. O'BRIEN. Yes; if he were denied a clearance, then he would have to step down—he would have to resign from the board, or the facility clearance for General Dynamics would be terminated.

Mr. NICHOLS. Well, is that a corporate decision?

Mr. O'BRIEN. No, it is a Department of Defense decision so long as he remained a member of the board. If they decided, "we are going to keep him on the board" then we would decide to remove the facility clearance.

Ms. BUCK. This is based on the decision by the board members that they want to be able to discuss classified information, to the level of the contract that they have, which, as I understand it, is top secret level. Is that correct, Tom?

Mr. O'BRIEN. Right; yes.

Ms. BUCK. And, therefore, so long as you have that situation, that they want to discuss top secret, he would not be able to participate, if his clearance was revoked. He, of course, has not had his impartial hearing, as things stand right now.

Mr. CARNEY. How do you revoke the clearance from a facility like Electric Boat? If he stays on the board—let's carry this out. Now, you say I have to revoke the clearance of Electric Boat. Who builds my submarines?

Mr. O'BRIEN. Well, that is a decision that would have to be made by the Secretary of Defense, obviously. As the policy stands, if a person who is—who has required clearance—required facility clearance, and his clearance is revoked, then that person must step down.

Mr. CARNEY. Of course, there is no way you really can revoke the facility clearance at Electric Boat. What are you going to do? Bring moving trucks in there, and bring everything out tomorrow, they are not cleared? I mean, no one is capable of building the Trident submarine for us, except for Electric Boat. That is one of the reasons we have a problem.

I have one other question, if I may. You said before that General Dynamics did not inform you of this. How do you know they did not, back when the security clearance was being checked?

Mr. O'BRIEN. I don't believe I understand the question——

Mr. CARNEY. Well, when Mr. Mavroules was asking you a question, you said that General Dynamics did not provide you with the necessary information that they are required to by law. How do you know they did not provide you with that information?

Mr. O'BRIEN. We have no record that they made the report to us, as required. When we asked them about it, they didn't tell us that

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they had made it, either. But, our records in that respect, would be good. If we had received a report, as required by the Industrial Security Manual, that would be incorporated into the——

Mr. CARNEY. The records are good for that, but you don't have any other records. That is what I am confused about.

Mr. O'BRIEN. Oh, I did not say I did not have any other records. I said our records are not totally complete with respect to the timeframe of 1973.

Mr. CARNEY. But you are sure that the part that is missing is not the part that might have said General Dynamics did submit it.

Mr. O'BRIEN. I am sure that when we chastised General Dynamics for not making the report, if they had made such a report, they would have informed us of that.

Mr. CARNEY. Thank you, Mr. Chairman.

Mr. KASICH. Mr. Chairman, I would like to ask one question.

Mr. NICHOLS. Mr. Kasich, you are next.

Mr. KASICH. Mr. O'Brien, just one simple question. My staff approached me about putting in legislation that would give your folks access to the records of people and the records and access to local law enforcement files, or tapes, or whatever they would have, whenever it applies to somebody who is trying to get a security clearance. My concern was your going in there at the local level. Does that begin to impact on somebody's—well, the Federal Government having too much information and too much access? That is the concern I have. Would you support a piece of legislation which would say that, when somebody does apply for security clearance, you would have access to all information that a local law enforcement authority would have, or a State law enforcement authority would have? Would that assist you in performing your job?

Mr. O'BRIEN. Very definitely it would, yes, sir.

Mr. KASICH. Thank you, Mr. O'Brien.

Mr. NICHOLS. Are there other questions? Thank you. Mr. Lally?

Mr. LALLY. Either of you, do the regulations provide any penalty for a corporation for failing to disclose involvement of one of it's cleared employees or officers.

Ms. BUCK. There is not any per se penalty for this that I am aware of, no.

Mr. LALLY. Thank you, Mr. Chairman.

Ms. BUCK. Mr. Chairman, could I just make a couple of brief comments?

I just wanted to say that I agreed completely with the comment that was made by Mr. Carney, that there is certainly no legal right to a security clearance. This is a privilege that people have, based solely on need and trustworthiness. So, we have made certain changes in our program to try to strengthen our overall security program. We recognize that this is a problem.

In addition to that, we had talked briefly about the overall 10-percent reduction in clearances. We are doing other things, too. One of the things that we are doing, and I am working closely with the Defense Investigative Service, and Mr. O'Brien is in every case that comes through, we scrutinize it very carefully to see if the person even has a need for a clearance. I think that we have turned back a lot of cases on that basis, alone. Thank you.

Mr. NICHOLS. Mr. Carney.

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Mr. CARNEY. Yes. As a followup to that, I agree with you, that is the way it should be. But, what I am concerned about is that, in this particular case, someone who is in an appeal process maintains his security clearance. He has 20 days to rebut your decision to revoke, and that could be drawn out in a court action.

Could we not establish that during the time of investigation, one automatically loses his clearance, or her clearance, whatever the case may be, while an investigation is taking place? We do not give someone a clearance originally until after an investigation. If, subsequently, more information becomes available, that clearance should automatically, in my mind, be revoked until that investigation is taken care of, so we do not have a lapse in between.

Ms. BUCK. There are a handful of cases in which we have taken an emergency step to suspend it, temporarily, as the person goes through the process. Those are very, very selective cases, however.

Mr. CARNEY. You can do that?

Ms. BUCK. Yes.

Mr. CARNEY. Thank you.

Mr. MAVROULES. Mr. Chairman, may I just proceed on one point? I think you stated before that at that time you were not aware of any penalties when I asked the question. I think, Mr. O'Brien, you responded with that statement. When I asked you what you do about it, you said, you know, we just do not have the penalties.

Mr. O'BRIEN. We do not have a penalty. The tool we have is the unsatisfactory rating for the facility.

Mr. MAVROULES. Well, that was then. If we were to have the same situation today, do we have any penalties in place that you can refer to?

Ms. BUCK. We do not have any penalties, no.

Mr. MAVROULES. You do not?

Ms. BUCK. No.

Mr. MAVROULES. Do you think it wise, as a Government, and part of the Defense Department, that we do have penalties in place?

Ms. BUCK. I do not think that the Department has taken a position on this, but I certainly think that it is worth considering, and we would be happy to work with you on exploring solutions.

Mr. MAVROULES. Let me get in on that point. Can you not do this by regulation?

Ms. BUCK. I think if you are talking about penalties, we may need legislation.

Mr. MAVROULES. It would require legislation?

Ms. BUCK. I believe so.

Mr. MAVROULES. Thank you.

A 10-PERCENT REDUCTION IN SECURITY CLEARANCES

Mr. NICHOLS. Thanks to both of you.

The next issue that we are going to talk about, today, involves the 10-percent reduction. According to Department of Defense statistics, the Department of Defense engaged in 14.7 million contractual procurement actions in 1983, at a cost of $140.5 billion. A significant portion of these actions involve sensitive defense technology, which require security protection. There are over 14,000 defense facilities, and over 1.4 million contractor employees, engaged in the

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manufacture of classified equipment. In addition, there are approximately 16 million classified documents used in the defense industry. The Defense Investigative Service, which is responsible for administering the Industrial Security Program, has less than 200 inspectors to conduct oversight, to ensure protection of this sensitive technology.

Over the last year, we have seen the proliferation of espionage cases culminating in the arrest of members of the Walker spy ring. As a result of these cases, there is increasing concern that our most sensitive technology and classified activity may not be adequately protected. How can an organization the size of the Defense Investigative Service be expected to police this business, the personnel, and the material which exist in large numbers in the defense industry.

Today we will hear from Mr. L. Britt Snider, Office of the Under Secretary of Defense for Policy, and Mr. Thomas O'Brien, Director of the Defense Investigative Service. They will address the Department's efforts to improve the Industrial Security Program, and the programs which have been encountered in trying to control the proliferation of classified documents, and numbers of personnel with security clearances.

First, however, we will hear from Ms. Sally Douglas, of the National Federation of Independent Business, and Mr. Don Doll, from the Aerospace Industry Association. They will relate to us the problems which defense businesses may face if they are required to reduce the number of employees with security clearances.

Ms. Douglas and Mr. Doll, we are glad to have you. If you will come to the table please, you may begin.

Do both of you have prepared statements? Without objection, they will be inserted in the record.

STATEMENT OF SALLY DOUGLAS, MANAGER, LEGISLATIVE RESEARCH, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Ms. DOUGLAS. My statement is brief. Thank you very much for the opportunity for NFIB to appear, today, on this issue. We have had some comments from members who are affected by the new directive. The comments are interesting, because they are prefaced by a sincere desire to cooperate in any way, and a concern about any kind of security leaks or vulnerability in this important area. And yet, they see some problems with the potential impact on small firms from the directive.

Let me just summarize. Some of the comments that we have heard from members—the concern about an overall, across-the-board reduction which, in a small firm, for example, at any particular security level, you may have two people on staff currently who have the appropriate clearance. A 10-percent reduction in that instance, to achieve a 90-percent reduction, would be an actual impact of 50 percent. They are concerned that this would put them in the position of being unable to perform the contract.

Also, the baseline figure, which is June 1 of this year, and there is no provision in the directive for any kind of increase, would not allow them to expand in this area at all.

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The feeling that I get from the comments that they are expressing is that while they concur with the absolute need to know, in terms of controlling the numbers of security, and the people who get the classified information, they are concerned that this kind of quota system—if you will—will affect them now with current contracts, and will affect them, perpetually, in the future. They simply do not feel that this is, perhaps, the best way for DOD to accomplish their objective.

PREPARED STATEMENT OF SALLY L. DOUGLAS

Mr. Chairman, on behalf of the more than 500,000 small business owner members of the National Federation of Independent Business (NFIB), I am pleased to testify today on the potential impact on small contractors of the recent directive issued by the Department of Defense concerning reductions in security clearances within DOD itself and the defense industry.

National security is nothing to be taken lightly, and recent events would seem to indicate that our Nation is more vulnerable to security leaks than any of us would care to admit. It is therefore not only understandable but commendable that Secretary of Defense Caspar Weinberger wants to take quick and decisive action to minimize security breaches.

While we support the directive's intent, however, comments from our membership compel us to question the practical impact of the mechanism used to control access to classified defense information. Establishing a requirement that all defense contractors, regardless of size, reduce the number of security clearances at each level by 10 percent will have a serious negative impact on the contracting capabilities of small, innovative, high technology firms.

As is too often the case, the DOD has failed to make any distinctions between large contractors and small contractors. There may be some statistical validity in requiring big firms with hundreds or thousands of employers working on classified contracts to make an across-the-board reduction of 10 percent. In a small firm, however, you may well have only two individuals cleared at a particular level. The directive would therefore result in an actual reduction of 50 percent in current clearances. Further, if both employees were working on the same classified contract, the directive would most likely result in contract nonperformance.

Another key concern expressed by NFIB members is that the directive appears to contravene DOD procurement procedures. A business cannot even bid on many classified procurements without being able to show availability of properly cleared individuals. Contracts cannot be properly executed unless employees already have clearance because it takes 6 months to a year—and sometimes longer—for the Government to process a clearance request. Smaller firms in particular will be hampered, since such firms often bid for small contracts of short duration.

In addition, the effect of the directive on business growth is substantial. Contractors are required to base the security clearance reductions on the number of clearances on record at the time of the most recent DIS inspection prior to June 1 of this year. Reductions must be achieved by August 15, and there is no provision in the directive for future growth. Given this absolute approach, there is no opportunity for businesses to increase the number of authorized clearances to handle more classified contracts. A small firm will seemingly be perpetually held to the amount of classified work which can be supported by 90 percent of its June 1985 baseline. We question whether it is DOD's intent to thus limit small business participation in classified contracts, but such limits are the practical outcome of the directive.

One NFIB member raised two concerns pertaining to his particular business: efficient application of employee expertise, and employee mobility. In a small high technology firm, employees shuttle back and forth between several jobs as their particular talents are needed. Rarely is any employee assigned to a particular contract job on a full-time basis. A data base technology specialist, for example, might spend half his time on one classified effort and the other half on other, nonclassified work. This kind of work plan is a natural outgrowth of having a small pool of employees working on a number of small jobs—unlike larger businesses in which a large contract is performed by employees, most of whom are assigned on a full time basis. The 10-percent reduction goal will affect the small firm's ability to shift personnel between jobs on an as-needed basis and impact the efficient application of expertise. Exacerbating the problem is the impact of employee mobility. After the directive is implemented, should the small firm lose a cleared employee, contract performance

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will suffer substantially. If there is no pool of cleared employees—which in a small business will be bare bones, anyway—to take up the slack, there can be no immediate substitution of a qualified replacement. Employee mobility can be a serious problem whether 5 or 50 people are working on a contract. But as our member points out, a loss of one from a pool of five is about 20 percent labor loss, as opposed to a 2 percent loss from a pool of 50, and is therefore considerably more significant.

As I said earlier, the directive is difficult to criticize because none of us can afford to take national security lightly. Yet NFIB members who are affected by this directive identify concerns over the practical effect of the mechanism DOD has selected which we believe merit serious consideration. Certainly the key to access to classified information is the need to know particular information to perform a particular contract. Across-the-board reductions in security clearances will not necessarily reduce security vulnerability. Strict enforcement of access based on need to know would seem to us to be a better approach, even though we realize that need to know is not easily quantifiable and guidelines would be more difficult to devise. We do, however, hope that this subcommittee can encourage DOD to take a second hard look at the reduction directive with a sharper perspective as to its impact on small firms.

STATEMENT OF DONALD E. DOLL, CHAIRMAN, INDUSTRIAL SECURITY COMMITTEE, AEROSPACE INDUSTRIES ASSOCIATES

Mr. NICHOLS. Mr. Doll.

Mr. DOLL. Yes. I do have, as you indicated earlier, a prepared statement. But I have modified that, significantly, and I would be glad to give the committee a copy of my modification.

I am Don Doll, the program director of security with IBM, and I am appearing before this subcommittee on behalf of the Aerospace Industries Association of America, which is formally known as AIA. I serve as chairman of the industrial security committee within AIA. AIA represents more than 60 of the Nation's major manufacturers of commercial, military and business aircraft, helicopters, aircraft engines, missiles, spacecraft, and related components and equipment, as a contractor of the Department of Defense.

On behalf of AIA's Industrial Security Committee, I would like to endorse the concept of the reduction of security clearances held by personnel of the various Government departments and agencies, as well as the reduction of the number of clearances held by defense contractor personnel. We, on the AIA Industrial Security Committee, are in support of personnel security reduction. We believe the methods used to obtain a reduction may have been somewhat precipitous.

In our opinion, the current 10-percent across-the-board mandate in fact, the aerospace industries will have exceeded that 10 percent by some considerable percentage—while numerically successful, may not be the best way to manage clearance reduction in the future, and may really only have a minor effect on what is the fundamental problem, which is to prevent future losses of classified information.

We suggest that your future clearance reduction programs be based on some of the following concepts, which are presented by the AIA Industrial Security Committee, and recommended to the DOD Industrial Security Review Commission, on August 9.

What I am going to do, from this point on, is talk to three specific areas. I am going to identify the concern, and I am going to make some recommendations. The three areas that I will cover are

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need to know, classification management, and clearance management.

The first recommendation that deals with need to know. The concerns—and the reason I bring this up, as it relates to clearance management, is that clearance alone is not sufficient.

Clearance, alone, is assumed to be the basis for need to know, and it is not the basis for need to know at all. The fact that someone has a secret clearance does not authorize him to have access to information of a secret level, unless he specifically has need to know. Need-to-know criteria for most sensitive and critical information, may not be effectively communicated or implemented by user agencies or DOD contractors. Need to know a key vehicle of controlling classified information—if you are really controlling information, and yet, it need-to-know—may not be properly communicated. Because of this, this may offer you the most significant exposure, and the highest vulnerability. A significant percentage of incidents of loss of information, occur with authorized access, without need to know. In other words, clearances are really thought to make information available and—to make the individual eligible to have access. Some specific recommendations as it relates to this area:

Program manager, in industry or in Government, to be responsible and accountable for need-to-know controls and compliance. If you really want to stop people from accessing information, give it to someone of authority who has the responsibility, hold him accountable, which is really the program manager, both within Government and industry, and let them control, on a need-to-know basis, the access to information. We are really talking about access to information.

Ongoing access review certification can be based on a contract requirement criteria. Every contract DD–254, or whatever else, can specify those areas that are truly significant and of a highly classified nature, and should have limited access. Need-to-know compliance could become integral to the defense investigative services 696 program review. This, Tom O'Brien's organization, reviews quarterly almost every industrial contractor. The need-to-know compliance could, in fact, become integral to that. You probably would need some more people for that, but it certainly would put emphasis on need-to-know.

But, also, increased compartmentalization, such as used in carve-out programs, based on need to know, could also add additional value, here. In other words, information that is of a highly sensitive nature could be more compartmentalized.

The second area which relates to this subject is classification management. The concerns, and then the recommendations.

The concerns: first of all, over and under classification tends to make a mockery of security. I think the philosophy whether it be Government or industry, if I may, is, when in doubt, classify. When that occurs, classification means nothing. And yet, classification is a tough subject to teach, it is a tough subject to make people understand. And yet, if we really want a security system, the classification process clearly has to be understood, has to be enforced, and has to be complied with. It is not clearly understood and applied in a standardized manner. The downgrading the process is pretty inef-

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fective. The implications of the lack of an effective downgrading process is that, we are literally storing tons of worthless documents—and I think you made mention of it earlier, hundreds of thousands, if not millions of documents. As we get into the electronic age, that will be stored electronically.

Confidential classification: There is, and has been, over a long period of time, a question within aerospace industries is confidential classification meaningful? Does it really protect national-interest-type of items? Are the resource, which are expended on controlling and storing and accounting for confidential really warranted. Those are the concerns.

The recommendations: Assure awareness, and standardized application of classification and implement effective government/industry classification training programs. Clear, concise, standardized classification criteria should be developed and communicated. When you mark something secret, what criteria does it really have to comply with? When you go to top secret, what are the implications? Standardized application across the board, both within Government and industry. Communicate cause and effect. This is an awareness-type of a training program. What is the cause and effect of over or underclassification. Overclassification costs a tremendous amount of money to properly protect. Underclassification certainly exposes information that might otherwise be sensitive. I do not think people truly understand the full implications of this, and how it can affect things of national interest.

We recommended that the Commission review and improve the declassification process. Meaning that there would be a more effective way for declassifying documents in a more timely fashion. It has to be stored somewhere. The more you store classified information, the more vulnerable it is to access and also you just run out of space.

The last recommendation in this area is to consider eliminating the classification confidential. If it is important, classify it secret or above, but really put a discipline in to properly classify. It is kind of a catch-all. And yet, it costs both industry and Government a tremendous amount of money to maintain classified documentation. The Government and industry should also be required to develop and implement a strong and effective oversight of their classification management. It is the worst subject in the world to teach, to communicate; nobody is interested in coming in for half an hour or 15 minutes on how do you properly classify, and yet, it is fundamental to the whole program of security.

Program management should be accountable for proper classification. Somebody has to be accountable for it, and that is program management, both within government and industry. If it is underclassified, there should be certain penalties. If it is overclassified, the same should apply.

The last area is clearance management. I will speak first of concerns, and secondly of recommendations.

The current reduction program may, because of the lack of need-to-know emphasis, have a minor effect on potential losses. It may not have a significant effect. Just because you take clearances away from people, we find few of them are the people that you really need to watch. It is really need to know. Critera which

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should determine who should have access. Major implementation costs and administrative burden of both Government and industry have been associated with this program.

Industry turned to the fore with Tom O'Brien's organization, and they really worked as a team. Industry was apprehensive, relative to the return on the investment of the true effectiveness; but, by gosh, in the industrial security side of the business, management and industry and DOD have really worked well together in making this program happen, and we have, as I said earlier, exceeded the 10 percent.

There is an excess of clearances, and we think that most exist to be responsive to Government contract performance and proposal requirements. You cannot make a proposal—you cannot respond to a proposal, without having cleared people available to respond to it. You have to put names in a proposal. You have to identify individuals. So, therefore, you have to have people waiting in the wings, in order to respond to contracts. And sure, there is excess. Here, again, is the problem really, and the fact that those people are waiting in the wings to be responsive to programs of national interest, whereas the real critical thing is who controls their need-to-know access? And I think the latter is the far more fundamental issue.

Recommendations: Certainly, complete the current clearance program reduction effort, but allow industry to work with DOD and manage subsequent clearance maintenance programs. We ought to do this in the national interest. There is just no question, and I think representatives of DOD would agree, that industry really did attack this program in the national interests. Industry can and will implement clearance controls within prudent business practices necessary to be responsive to both Government and business needs. What that says is, let us keep the program in the proper balance. Allow industry to determine what do we really need to run the business? We will do it with prudent business practices and in proper balance with industry and Government. I think industry can do that. Require industry to manage on a need-to-know basis. I keep coming back to that, because we, in industry, really feel that that is fundamental.

Maintain or reduce a person's clearance to the highest need-to-know access. If you have a top secret clearance, and you have not used it for 6 months or 1 year, then it should be reduced. Maybe it should be reduced to confidential. Implement, in real time, a required review every 3 years. The DIS audit clearance program could do this. I think that, regardless of how it is controlled, there ought to be a review, approximately every 3 years. The last is implementing a Security Clearance Reinstatement Response Program. That is a lot of words, which are fundamental in the concept, within industry, being able to respond to the Government contracts. What this does is, if in fact you do not need a clearance, you can have that clearance lowered from top secret to secret, or even confidential. But, within a process that is totally responsive. And, I am talking about a process with a 24-hour response, that clearance can be reinstated.

Now, most management and staff top secret clearances are necessary for only occasional use. I would feel, although I have not

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been a part of the Government, that that is probably true within the Government also. And so, if, in fact, there were a responsive reinstatement program that would allow myself, and others, to go down to a confidential level, but if I needed to attend a top-secret conference, within a 24-hour period I could get that reinstatement administratively through DIS. That would be very satisfactory. This should be "an initiated response, 24-hour, noncomplex," that's in quotes, "TS Clearance Reinstatement Program."

Now, I would be glad to answer any other questions.

Mr. NICHOLS. Thank you. Since this area is in Mr. McCurdy's ballpark, I am going to give him my time.

Mr. MCCURDY. Thank you, Mr. Chairman. I would like to commend both the witnesses, but especially Mr. Doll for his statement. In the 3 years I have been on the Intelligence Committee, and the 5 years I have been on this committee, I have not heard as forthright and candid an analysis of our classification system, and I appreciate what you have said. I could not agree more.

I think there are some very, very important comments that you made. We do classify too much information. When in doubt, we do classify. And, having sat in meetings with all the compartmented information, I am always appalled when they handcarry it to you, and you have to sign for it, and they have to read it in your presence, and the next day you get a better description in the Boston newspaper, or the New York Times. I think there is a real tendency to do this, and I think we can have better management control. I also concur with your concern over the elimination of confidential. It is an absurd classification. I am not sure how we got there. The question I have of you, sir, from your experience, is there a classification review committee that each individual corporation has with DOD? In other words, do officials at IBM, in their areas where there is a need for classification, have a periodic review with this or some DOD agency, or the particular service who manages those clearances, to review each of those classifications?

Mr. DOLL. Within the Federal Systems Division, which is a portion of IBM that deals with the Federal Government, there are classification reviews, there is classification training. Classification is really the responsibility of program management. We are really held accountable for that. It is difficult for outsiders to review documents that have been classified by someone else, and comment relative to their appropriate classification. There is no formal structure, I do not think, within industries, or within other corporations that are specifically set up to review proper classification.

Mr. MCCURDY. It is up to the program managers what——

Mr. DOLL. Right. And, I think the thing that we have got to do, through industry, is to train the program management to better understand the classification process.

Mr. MCCURDY. Well, I would agree, again, that there has to be this cooperation. I think that poor Britt Snider and his folks over at the building have a real problem on their hands, because more and more we have these requirements, the more personnel is required of them. We just passed legislation on periodic review polygraph. Well, that is fine, but we did not get them any money or any assistance to perform this function. I think we need to be careful before we make these guidelines.

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One—the area that we need to concentrate on first is reducing the number of classifications and, at the same time, we can, I think, move in the direction of reducing the number of people that have those. It needs to be commensurate with the level of activity of that corporation, or that business, that consulting firm, or whatever. I think it arbitrary, until we get better answers, Mr. Chairman, from the Department as to how it intends to implement this in, vis-a-vis, small defense firms, this could be an absolute disaster. Because, you could go to a major aerospace firm, and it has billeted slots that are allocated for that classification. They can, you know, they are just there. They have a crew of those that they can move into or move out of. With a small company, they have half a dozen people, and there should be some minimum—are we talking about firms under 15, because again you are talking about the percentages. Those are the kinds of answers that we need to get.

Also, Mr. Chairman, if I may, for a minute—I was amused at some of the comments made in the earlier hearing. I can see that one of the problems members are concerned with—and you know we are not going to solve this problem by automatic requirements. It is still a personnel problem. We just had the defection of the No. 5 man of the KGB. I don't care how far you reduce the clearances, you are not going to stop that kind of thing. So, you have to be reasonable, and you have to work at the people level. That is where the training comes in. We had a problem with the engineer at one corporation, who wanted to sell plans. Greed and revenge are still the two principal causes for espionage or for defections, or attempts to give away America's secrets.

Mr. Chairman, my Subcommittee on Intelligence has had a number of hearings on this, and it is as good as anything we have received from the agencies involved. Again, I want to commend the gentleman's statements, and commend you for undertaking this endeavor.

Mr. NICHOLS. Mr. Carney.

Mr. CARNEY. Thank you, Mr. Chairman. I think Mr. McCurdy hit the nail on the head. We have been saying this. We just have yet to get around to taking any action. There is too much material that is classified. You cannot put quotas on who should or should not get a clearance for various levels of classified material. That is driven by one's need, and driven by our nation's need for our national defense. I appreciate the testimony of both, pointing out what this would do to a small company. It is an arbitrary figure. Why didn't they say 8 percent, or why didn't they say 18 percent. It is 10 percent. That, obviously to me, was not thought out very carefully. And, to proceed along this path is incorrect. We have to implement many of the suggestions that you have made, as quickly as possible, to deal with it.

In testimony given before, we mentioned that there is over 200,000 investigations ongoing this year, for people's classification, and we only have 200-or-so people doing it. Obviously, that is inadequate. They cannot do the job they are required to do. It is too much of a workload. I have to question whether we need 205,000 people in this country—whether they need a classification this year. It seems to be an incredible number. It is obviously too big for us to handle. And how do you attack that? You reduce the amount

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of information that has to be classified, and you have a better management of that classified information. I commend you for your suggestions.

Thank you, Mr. Chairman.

Mr. NICHOLS. Mr. Kasich.

Mr. KASICH. Thank you, Mr. Chairman. I agree with Mr. McCurdy that it ultimately becomes a people problem, but I am greatly concerned that we have a systemic problem. To give you one example, at the current time, trading corporations are permitted to have access to many of our facilities, Naval facilities, Air Force facilities, reported in the New York Times, or the Washington Post, that the Soviets have been able to successfully use trading corporations to move in and out, and to gain access to a lot of information that we, if we had known it, would prefer them not to have access to. The same way that we have 205,000 people, that in 1 year, try to get security clearances. It is too many. It is flatout simply too many.

My concern is, if you are going to allow that many people to receive classifications, with an inadequate staff, and inadequate guidelines, Mr. O'Brien testified that the State of California does not cooperate with his agency in trying to determine any of the local law enforcement facts or background that an individual may have; and, as it was pointed out earlier, Mr. Walker got a clearance when he had violated the law. Nobody knew about it. Why? Because we did not have a system—there were systemic problems in the way in which we classify people. We have a $300 billion defense budget in this country, and we are trying to classify 205,000 people in 1 year. My great concern—along with things like trading corporations, and inability to gain access to information, is we ought to make systemic changes.

I am glad the chairman called this meeting, and I hope we are going to have many more to come up with legislation, along with Mr. McCurdy's hard and thorough work in the Intelligence Committee to resolve the problems, because people do not want us to shoot ourselves in the foot.

Mr. MCCURDY. Will the gentleman yield?

Mr. KASICH. Fine.

Mr. MCCURDY. It has been my experience, and I think of other members, that we all have an image in our minds as to the particular problem that we are looking at. But we are not just talking about solely the manufacturers' next generation of equipment, or high technology, or secret equipment, or whatever. We are also talking about military installations. This is a very, very large system that we are concerned about. Five years ago some of the key nuclear facilities at the Department of Energy had the worse security you have ever seen in your life. It has been my experience that they had greater security on proprietary issues than they had on national security issues. Again, it is a mind set that needs to be transferred to the Federal Government, and we have not had that to the degree that I think it should be instilled. So, again, I think there are systemic problems. We have not addressed this, but I think, if you compare what it was 10 years ago, and a lot of us have been involved in this area, with what it is today, you see a major shift in emphasis or direction. I think it is getting better. But again, I think we need to put some race horses behind it. That

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$300 billion is not worth much, if you do not have enough people to do those periodic reviews. Walker could have been eliminated, because he would have been—if he had had a 3-year review on classifications, prevented from having that type of——

Mr. KASICH. My understanding on that was that when he was originally cleared, he had committed the crime already. And, if they would have had access to this information—I may be incorrect on that, but I believe that if they had had access, it would never have gotten this——

Mr. MCCURDY. But he was a naval officer——

Mr. KASICH. Well, we have got to know which Walker we are talking about, too. The Walker who was a naval officer, got his clearance while he was in the service.

Mr. NICHOLS. Mr. Mavroules.

Mr. MAVROULES. Mr. Chairman, I do not have any questions, but I do want to commend both witnesses. I think the testimony this morning is just absolutely excellent, because you are constructive, and you give us some forward-thinking ideas.

Ms. Douglas, I also have received a number of complaints, being on the Small Business Committee, from many small business people back home. You bring to us some of the real internal problems involved. The suggestions made here this morning, Mr. Chairman, we must take seriously, because I think they are heading us into the right direction. Personally, a 10-percent reduction is symbolic. I do not think we attack the problem by doing that. However, we look fairly good in doing that. It is not attacking the problem, and you and I know it. So, I commend both witnesses, Mr. Chairman, and we ought to be taking them very seriously. Thank you very much.

Mr. NICHOLS. Just one little question. I get the idea that there is another dimension in this whole problem that we are talking about here. Isn't a security clearance somewhere associated with the status—isn't it a status symbol? Isn't it somewhere in an occupation, corporation, or even in the corporate dining room? I do not know if there is a thing we can do about it; but I just get the feeling that, if I have a top secret clearance, my work is a little more important than this man here. It is more important than this man who has a confidential clearance.

Mr. DOLL. Is that a question, sir?

Mr. NICHOLS. Well no, not really.

It is just an observation that I have made.

Mr. DOLL. I think the observation is valid, to a degree. I think that it is another criteria—another rationale, if you will, of why industry is looking to further enhance the need to know criteria. I think with need-to-know enforcement, you will minimize politically advantageous, or image advantageous type clearances.

Mr. NICHOLS. Well, let me thank both of you. You brought good information to the committee. And, I am one who likes to do it by regulation, if we can; but it is obvious to me that we are probably going to take a direction of legislation on this, and I am glad to have Mr. McCurdy on the House Intelligence Committee here to work with us.

Thank you very much.

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NATIONAL SECURITY INDUSTRIAL ASSOCIATION,
Washington, DC, October 21, 1985.

Mr. WILLIAM T. FLESHMAN, Jr.,
Professional Staff Member, Subcommittee on Investigations, Committee on Armed Services, Rayburn House Office Building, U.S. House of Representatives, Washington, DC.

DEAR MR. FLESHMAN: This is in response to your telephone request on September 11, 1985, to provide comments on The Department of Defense 10 Percent Security Clearance Reduction Program.

The National Security Industrial Association (NSIA) is a national organization of more than 385 industrial, research, legal and educational organizations of all sizes and from all segments of industry interested in and related to the nation's security, a not-for-profit, non-political, non-lobbying association established in 1944 to foster a close working relationship and effective two-way communication between Government—primarily defense—and the industry which supports it.

NSIA recognizes and appreciates the committee's interest in the effects of this 10 percent clearance reduction program. We trust the Department of Defense is sensitive to the fact that the maintenance and administration of this facet of its Industrial Security Program is a joint responsibility and can only be achieved through mutual cooperation. Industry must manage its needs for individual security clearances to the minimum number consistent with current requirements. However, the Department of Defense must allow contractors to maintain the flexibility to staff new-start contractual projects with sufficient numbers of security cleared personnel. This would depend upon an increased capability of the Defense Investigative Service to accelerate processing additional security clearances when and as the need arises.

Our specific comments are attached. We hope they will be of assistance to the Committee. Please call on us if we may be of further help.

Sincerely,

WALLACE H. ROBINSON, Jr.,
President.

PREPARED STATEMENT OF WALLACE H. ROBINSON, JR., PRESIDENT, NATIONAL SECURITY INDUSTRIAL ASSOCIATION

The National Security Industrial Association is pleased to have the opportunity to submit a statement on the DOD 10-Percent Clearance Reduction Program. We thank the committee for requesting our comments, and we hope that our thoughts will assist the committee in its deliberations.

The National Security Industrial Association (NSIA) is a national organization of more than 385 manufacturing, research, legal, and educational organizations of all sizes and from all segments of industry interested in and related to the Nation's security. NSIA is a not-for-profit, nonpolitical, nonlobbying association established in 1944 to foster a close working relationship and effective forum for communication between government—primarily those entities involved in national defense—and the industry which supports it. A copy of our annual report, which includes a list of our members, is attached.

Our association appreciates the goal of the DOD 10 Percent Clearance Reduction Program which was to enforce discipline into the system for granting personnel security clearances. We share the concern of the Secretary of Defense for the need to manage personnel clearances as a critical resource.

Although some of our member companies encountered significant administrative burdens in reducing clearances in the time allocated, we are not aware of any serious contractual problems that may result in cost overruns, defaults or loss of incentive pay. We wish additionally to emphasize that in many cases, the actual reduction in total clearances for some companies exceeded 10 percent. This was due to the base line being established from a previous inspection, which did not compensate for clearances which were being processed at the Defense Industrial Security Clearance Office (DISCO) or were in a state of transmittal. Many contractors who had requested clearances for classified contracts obtained after their last inspection had to cancel pending clearances. The reduction would have been more equitable if the 10 percent goal had been based on all clearances, including those pending at DISCO and those received since the previous inspection.

Industrial contractors have either met the challenge or, in a few cases, requested an extension of time to accomplish the administrative details involved. Our member companies support any effort to enhance the Industrial Security Program and our national security. However, any subsequent reductions will have a serious impact on both current and future programs.

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It is our opinion that the 10-Percent Clearance Reduction Program does not address the root cause of recent security problems. Several major deficiencies in the Industrial Security Program, including excessive delays in the clearance process and inadequate classification guidance in the early planning stages (re: during the period of proposal preparations and initial contract negotiations) are responsible for many of the current problems.

The completed DD Form 254, Department of Defense Contract Security Classification Specification, is the basic document by which classification, regrading and declassification specifications are documented and provided to prime contractors and subcontractors. It is designed to identify the specific items of classified information involved in the contract that require security classifications protection. Responsibility for preparation of the prime contract's DD Form 254 rests with the contracting officer or the designated representative of the user agency concerned. Based on the classification guidance received, each contractor is responsible for developing the DD Form 254 for each classified subcontract, request for proposal or other solicitation let to subcontractor facilities.

These problems result in cycles which make it extemely difficult and costly for the contractor to limit the number of cleared employees assigned to current contracts. They also make it difficult for managers to adequately plan for additional clearance requests in preparation for anticipated contractual awards. Without the benefit of early, well defined and concise classification guidance, contractors are unable to incorporate clearance requirements into their manpower planning. The problem is compounded by the excessive delays experienced in obtaining individual clearances.

As noted above, our membership has responded in a positive manner to the Department of Defenses's direction to reduce security clearances by 10 percent. Industry actions were prompted not only by the Department's direction, but also from an awareness that industry shares the obligation of assuring classified information is accessible only on a verified and controlled "need-to-know" basis.

This reduction in clearances can, however, be the precursor of downstream problems for both industry and govern ment. Unless a sound and meaningful program is promptly instituted to assure that timely classification guidance is provided for new programs and any necessary adjustment in the number of security clearances at a given contractor's facility is satisfied in a prompt manner, any benefit from the reduction program will be lost. The number and type of clearances required within an industrial entity at any given point in time is directly dependent on the content of its program (or contract) commitments and its need for access to classified information consistent with this business mix. Prior to the mandated reduction in security clearances, industry had a degree of flexibility or a contingency reserve of cleared personnel who be immediately assigned to a new classified program or an expansion of classified portions of any ongoing program. Effectively, this flexibility has now been eliminated. Until now, industry could tolerate a cycle of several months in the processing of new or reactivated security clearances for its employees by the cognizant activity. With the elimination of this flexibility, procedures for processing valid security clearance requests in a timely manner must be established and maintained by the government. Unless the Department of Defense is able to promptly accommodate these clearance requests, industry will be unable to respond in a timely manner in its execution of classified programs. This, in turn, could lead to program delays and higher costs.

We trust the Department of Defense is sensitive to the fact that maintenance and administration of this facet of its Industrial Security Program is a joint responsibility and can only be achieved through mutual cooperation. Defense contractors must manage their needs for individual security clearances by maintaining the absolute minimum number consistent with current requirements while the Department of Defense must either allow contractors to maintain a sufficient reserve of security clearances or must increase the Defense Investigative Service (DIS) resources to more promptly process additionally requested security clearances when that need arises.

Acceptable levels of clearances above the preestablished baseline would assure industry's ability to respond in a timely and positive manner to the government's programs and security requirements with no adverse effect on national security.

Mr. NICHOLS. Our next issue—Oh, Mr. Snider, excuse me, sir, excuse me, sir, do you have a prepared statement?

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STATEMENT OF L. BRITT SNIDER, DIRECTOR, COUNTERINTELLIGENCE AND SECURITY POLICY, OFFICE OF THE UNDER SECRETARY OF DEFENSE

Mr. SNIDER. Yes, Mr. Chairman, I do. I would like to read most of it, with your permission.

Mr. NICHOLS. We will accept it in the record, without objection. You may proceed.

Mr. SNIDER. It is a pleasure to appear before the subcommittee this morning. I have been asked to report to you on the status of the DOD's efforts to reduce the number of security clearances by 10 percent, which, as you will recall, was directed by Secretary Weinberger on June 10 of this year. By way of background, as of the first of April of this year, the Department had over 4.3 million employees and contractors, with some type of security clearance. Moreover, the number of clearances had been rising dramatically over the last several years, despite efforts to restrain the volume of new requests for such clearances. This figure of 4.3 million encompassed about 76 percent of the authorized active duty military and civilian strength of the Department. It also included 1.4 million industrial employees who worked for one of the 14,000 cleared defense contractors.

While all of us appreciate the substantial need of the Department and its contractors to have cleared personnel to perform much of its work, these figures seemed clearly excessive. Moreover, we were receiving reports, both formal and informal, that there were substantial numbers of cleared personnel in DOD and in defense industry who did not require access to classified information. Indeed, our office had come to the conclusion over a year before, that action had to be taken to exert stricter controls over the entire process whereby clearances were being requested and maintained.

Heretofore, there had been few restraints built into the system. DOD component offices and defense contractors had only to certify that there was a need for a clearance, and the requisite investigation was begun. It was free, insofar as these components and contractors were concerned, and they could request whatever numbers they wanted, almost without limit. All of these requests went to the Defense Investigative Service, which, as you know, conducts all the background investigations for the entire Department of Defense, including its contractors. While DIS attempted to identify those cases where the justification for a clearance was lacking, and return them to the requester, the volume of incoming cases was so overwhelming, and identifying unworthy requests so difficult, that DIS was unable to effectively eliminate them. We made further efforts, both with DOD components, and with contractors, in 1984, to institute controls of the number of requests coming in. While we received many expressions of sympathy and support, the numbers of requests continued to climb.

We had, in fact, decided early this year that imposing reductions was the only practical, short-term solution. Contrary to the belief of many, that conclusion predated the arrests of the Walkers and Jerry Whitworth in late May. These arrests did, however, cause us to expedite our recommendations to the Secretary, who directed, on

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June 10, an across-the-board 10-percent reduction in the numbers of security clearances, both in DOD and in industry, to be completed by the first of October. He also directed that requests for new investigations in fiscal year 1986, be reduced by 10 percent over the clearances requested in fiscal year 1984. A copy of the Secretary's memorandum has been attached to my prepared statement.

There are two parts of this memorandum, however, that deserve special emphasis.

First, the Secretary states that in ordering these reductions, it was not his intent that they hamper the Department in carrying out its assigned functions, nor was it his intent that they be implemented in a manner that might jeopardize the security of DOD operations. In short, reductions should not be imposed where they would adversely impact the defense mission, to include performance on defense contracts. Nor should they be imposed in a manner which would, as a practical matter, mean that people who are not cleared would have to gain access to classified information in order to get the job done. In other words, legitimate security considerations had to prevail over the imperative to cut clearances for the sake of reductions.

The second part of his memorandum which deserves emphasis is his statement that the purpose of the reductions is to eliminate what he perceived to be a serious security vulnerability. Too many persons are cleared, and are being cleared, who do not have a need for access to classified information. "Accordingly," states the Secretary, and I quote here, "implementation of these reductions shall begin with identifying those within the Department and its contractual base, who currently have security clearances, but whose jobs do not ordinarily require access to classified information. In addition, where classified work can feasibly be performed with more limited staff involvement, then extraneous clearances would also be targeted as part of implementing these reductions."

Thus, the principal purpose of this initiative was to deal with the problems associated with the excessive numbers of DOD civilian, military, and contractor personnel who were cleared, and were being cleared, when a security clearance was not necessary for the performance of their jobs. Many have pointed out that reducing the numbers of people cleared is, itself, not going to prevent espionage, and undoubtedly, this is so. It stands to reason, though, that such reductions will decrease our exposure to espionage by persons whose positions do not require access to classified information, and yet who have such access, due to their status as cleared employees.

As of September 15, we estimate that an overall reduction of approximately 8 percent has been achieved, and it does appear that DOD will meet or exceed the Secretary's 10-percent objective by the first of October. Each of the military departments has advised that it expects to satisfy the requirement in a timely manner. Indeed, the Navy reached the 10-percent figure several months ago, and at this juncture reports that they are now in the neighborhood of 26 percent. As you know, Secretary Lehman set a goal of 50-percent reductions in the numbers of Navy clearances.

We have had to approve exceptions for some Defense agencies, such as the National Security Agency and Defense Intelligence Agency, whose employees have an undisputed need for a clearance.

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But, for the most part, other Defense agencies will be able to meet the 10-percent goal.

As far as industry is concerned, DIS advises that as of September 14, industry had eliminated 149,599 existing clearances, or 10.7 percent of the whole. In short, the overall objective has been met. This was accomplished through the cooperation and assistance of all our contractors, particularly the larger ones, some of whom were able to reduce by 20 percent or more. In doing so, they compensated, in large part, for many smaller firms, who were unable to reach the 10-percent objective. For these small firms, as well as those who continue to receive new classified work, DIS has agreed to accept reductions of less than 10 percent, and, in appropriate cases, has approved increases over prior levels, based upon new contracts having been awarded. In short, we have provided flexibility in the implementation of this program, to permit performance on DOD contracts, as the Secretary suggested, in a timely and secure manner.

Will there be further efforts to reduce?

It is premature to say. We will analyze the results of this effort when they are reported to us, and attempt to identify components where further reductions may appear possible. Similarly, with contractors, we will continue to work with those where it appears to us that further reductions may be possible.

I do not anticipate further across-the-board reductions at this time, however. You will recall that the Secretary also directed a 10-percent reduction in the number of new requests for security clearances during the next fiscal year. If these limitations are enforced and adhered to, I do not foresee further across-the-board reductions.

There will be, however, a continuing requirement, we believe, beyond the next fiscal year, to strengthen our controls in the number of clearances being requested by both components and contractors. This could take the form of annual quotas, or placing ceilings upon the numbers of cleared billets within the DOD components or contractors. But none of us feels we can or should return to a system where clearances could be requested and obtained without charge, and virtually without limit. Not only does it mean great burdens in terms of the DIS workload, and is ultimately a waste of time and money, but it poses an unnecessary security vulnerability.

It is the Department's policy, on the one hand, that we get our classified work done with as few cleared people as necessary. On the other hand, there is the absolute, overriding necessity of clearing enough people to effectively and securely accomplish the overall defense mission. The trick is to find the balance. We believe these reductions will help achieve the former objective, without jeopardizing the latter one.

I will be pleased to answer any questions you have, Mr. Chairman.

PREPARED STATEMENT OF L. BRITT SNIDER

It is a pleasure to appear before the subcommittee this morning. By way of introduction, I am Principal Director for Counterintelligence and Security Policy, within the Office of the Under Secretary of Defense for Policy—Dr. Fred Ikle. As the title

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implies, my office has jurisdiction over most of the Department's counterintelligence and security policies and programs, including the Personnel Security Program and Industrial Security Program, which are of primary relevance for today's hearing.

I have been asked to report to you the status of the Department's efforts to reduce the number of security clearances by 10 percent, which as you will recall, was directed by Secretary Weinberger on June 10 of this year. (Copy attached.)

By way of background, as of April 1 of this year, the Department has over 4.3 million employees and contractors with some type of security clearance. Moreover, the number of clearances had been rising dramatically over the last several years despite efforts to restrain the volume of new requests for such clearances. This figure encompassed about 76 percent of the authorized active duty military and civilian strength of the Department. It also included 1.4 million industrial employees who worked for one of the 14,000 cleared defense contractors.

While all of us appreciate the substantial need of the Department and its contractors to have cleared personnel to perform much of its work, these figures seemed clearly excessive. Moreover, we were receiving reports both formal and informal, that there were substantial numbers of cleared personnel in DOD and in defense industry who did not require access to classified information. Indeed, our office had come to the conclusion over a year earlier that action had to be taken to exert stricter controls over the entire process whereby clearances were being requested and maintained.

Heretofore, there and been few restraints built into the system. DOD component offices and Defense contractors had only to certify there was a need for a clearance, and the requisite investigation was begun. It was "free" insofar as the components and contractors were concerned, and they could request whatever numbers they wanted almost without limit. All of these requests come to the Defense Investigative Service (DIS) which conducts all of the background investigations for the entire Department of Defense, including its contractors. While DIS attempted to identify those cases where the justification for a clearance was absent, and return them to the requester, the volume of incoming cases was so overwhelming, and identifying unworthy requests so difficult, that DIS was unable to effectively eliminate them. We made further efforts both with DOD components and with contractors, to institute controls over the numbers of requests coming in. While we received some expressions of sympathy and support, the numbers of requests continued to climb.

We had, in fact, decided early this year that imposing reductions was the only practical short-term solution. Contrary to the belief of many, that conclusion predated the arrests of the Walkers and Jerry Whitworth in late May. These arrests did, however, cause us to expedite our recommendations to the Secretary, who directed on June 10 an across-the-board 10-percent reduction in the numbers of security clearances, both in DOD and in industry, to be completed by October 1. He also directed that requests for new investigations in fiscal year 1986 be reduced by 10 percent over the clearances requested in fiscal year 1984. A copy of the Secretary's memorandum has been attached to my prepared statement.

There are two parts of this memorandum that deserve special emphasis.

First, the Secretary states that in ordering these reductions, it was not his intent that they hamper the Department in carrying out its assigned functions, nor was it his intent that they be implemented in a manner that might jeopardize the security of DOD operations. In short, reductions should not be imposed where they will adversely impact the defense mission, to include performance on defense contracts. Nor should they be imposed in a manner which would, as a practical matter, mean that people who are not cleared have to gain access to classified information in order to get the job done. In other words, legitimate security considerations had to prevail over the imperative to cut clearances for the sake of reductions.

The second part of his memorandum which deserves emphasis is his statement that the purpose of the reductions is to eliminate what he perceived to be a serious security vulnerability—too many persons are cleared and are being cleared who do not have a need for access to classified information. "Accordingly," states the Secretary, "implementation of these reductions shall begin with identifying those within the Department and its contractual base who currently have security clearances but whose jobs do not ordinarily require access to classified information. In addition, where classified work can feasibly be performed with more limited staff involvement, then extraneous clearances would also be targetted as part of implementing these reductions."

Thus, the principal purpose of this initiative was to deal with problems associated with the excessive numbers of DOD civilian, military, and contractor personnel who were cleared and were being cleared when a security clearance was not necessary for the performance of their jobs. Many have pointed out that reducing the numbers

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of people cleared is itself not going to prevent espionage, and undoubtedly, this is so. It stands to reason, though, that such reductions will decrease our exposure to espionage by persons whose positions do not require access to classified information, and yet have such access due to their status as cleared employees.

As of September 15, we estimate that an overall reduction of approximately 8 percent has been achieved, and it does appear that DOD will meet or exceed the Secretary's 10 percent objective by the first of October. Each of the military departments has advised that it expects to satisfy the requirement in a timely manner. Indeed, the Navy reached the 10 percent figure several months ago, and at this juncture reports that they are now in the neighborhood of 26 percent. As you know, Secretary Lehman set a goal of a 50-percent reduction in the Navy's clearances.

We have had to approve exceptions for some Defense agencies such as the National Security Agency and Defense Intelligence Agency, whose employees have an undisputed need for a clearance, but, for the most part, other Defense agencies will be able to meet the 10 percent goal.

As far as industry is concerned, DIS advises that as of September 14, industry had eliminated 149,599 existing clearances, or 10.7 percent of the whole. In short, the overall objective has been met. This was accomplished through the cooperation and assistance of all our contractors, particularly the larger ones, some of whom were able to reduce by 20 percent or more. In doing so, they compensated in large part for many smaller firms who were unable to reach the 10 percent objective. For these small firms, as well as those who continue to receive new classified work, DIS has agreed to accept reductions of less than 10 percent and in appropriate cases, has approved increases over prior levels based upon new contracts having been awarded. In short, we have provided flexibility in the implementation of this program, to permit performance on DOD contracts, as the Secretary suggested, in a timely and secure manner.

Will there be further efforts to reduce?

It is premature to say. We will analyze the results of this effort when they are reported to us, and attempt to identify those components where further reductions may appear possible. Similarly, with contractors, we will continue to work with those where it appears to us that further reductions may be possible.

I do not anticipate further across-the-board reductions at this time, however. You will recall that the Secretary also directed a 10 percent reduction in the number of new requests for security clearances during the next fiscal year. If these limitations are enforced and adhered to, I do not foresee further across-the-board reductions.

There will, however, be a continuing requirement, we believe, beyond the next fiscal year, to strengthen our controls on the numbers of clearances being requested by both components or contractors. This could take the form of annual quotas, or placing ceilings upon the numbers of cleared billets within DOD components or contractors. But none of us feels we can or should return to a system where clearances could be requested and obtained without charge, and without limit. Not only does it mean great burdens in terms of the DIS workload and is ultimately a waste of money and time, but it poses an unnecessary security vulnerability.

It is the Department's policy, on the one hand, that we get our classified work done with as few cleared people as necessary. On the other hand, there is the absolute, overriding necessity of clearing enough to effectively and securely accomplish the overall defense mission. The trick is to find the right balance. We believe these clearance reductions will help achieve the former objective without jeopardizing the latter one.

That concludes my prepared statement. I will be pleased to answer any questions you may have.

THE SECRETARY OF DEFENSE,
Washington, the District of Columbia, June 10, 1985.

Memorandum for Secretaries of the Military Departments; Chairman of the Joint Chiefs of Staff; Directors of the Defense Agencies; Director, Washington Headquarters Services.

Subject: DOD Personnel Security Program Clearance and Investigative Reductions.

There are currently approximately 4 million military, civilian, and contractor personnel who hold DOD security clearances. A large part of these have access to classified information on a continuing basis. These numbers alone suggest a vulnerability to compromise of such information.

The number of clearances awarded in DOD has climbed steadily for the last 10 years. Indeed, the number of personnel security investigations requested in 1984 represented a 50 percent increase over the number requested in 1975. Notwithstand-

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ing the fact that a good portion of this increase reflects recent growth in Defense contracting, it is clear that far too many clearances are being requested without appropriate justification. This, in turn, has caused great demands upon the investigative resources of the Defense Investigative Service, which performs personnel security investigations for the Department. These resources, in fact, have not kept pace with the burgeoning requests for investigations.

We must simply exert more management control to limit both the numbers of persons who already have clearances, as well as the numbers of persons being put in for clearances, to those who absolutely require access to classified information in order to accomplish the Defense mission. While I aware that some steps have been taken in this regard, I am persuaded that there is more that should be done.

Accordingly, I am hereby directing (1) a 10-percent reduction in the number of cleared persons within DOD and defense industry, at each level of clearance, to be accomplished by October 1, 1985, deeper reductions may follow; and (2) a 10-percent reduction in the numbers of requests for background investigations submitted for fiscal year 1986 to be secured through reconsideration by those submitting these requests of the necessity of clearances for the individuals. For purposes of arriving at the first level of reduction, the numbers of clearances in effect at the end of fiscal year 1984 shall be used as a base (enclosure 1). For purposes of arriving at the second level of reduction, the numbers of investigations reported during fiscal year 1984 shall be used as a base (enclosure 2).

In ordering these reductions, it is not my intent that they hamper the Department in carrying out its assigned functions, nor is it my intent that they be implemented in a manner that might jeopardize the security of DOD operations. Indeed, the purpose is to eliminate what I perceive to be a serious security vulnerability—too many persons are cleared and being cleared who do not have a need for access to classified information. Accordingly, implementation of these reductions shall begin with identifying those within the Department and its contractual base who currently have security clearances but whose jobs do not ordinarily require access to classified information. The clearances of such persons should be terminated. In addition, where classified work can feasibly be performed with more limited staff involvement, then extraneous clearances should also be targetted as part of implementing these reductions.

I also note that these reductions are being parcelled out at DOD component level. It is not expected that such reductions will be possible or appropriate for every office or activity within such Components. Rather, the reductions should be made by each Component taking into account its overall needs and staffing.

The Deputy Under Secretary of Defense (Policy) shall have overall responsibility for the implementation of this policy. With respect to industry, the Director, Defense Investigative Service, under DUSD(P) supervision, shall take such actions as may be appropriate to administer this requirement. In this regard, I ask the heads of all Components to cooperate in the implementation of this policy for all of their classified programs. I would like an interim report by August 1 as to how many reductions have been achieved by then and to be assured we are on the path to reach the goals set.

CASPAR WEINBERGER.

Enclosures.

Mr. NICHOLS. Thank you. I have one or two questions. All of the recent espionage cases; for example, the John Walker case, the Chris Boyce case, with TRW, and the William Bell case—they all involved a person with a legitimate requirement for clearance. No question about it. How does a quantitative, across-the-board blanket cut, take into account the qualitative distinctions that need to be made in determining a security clearance?

Mr. SNIDER. Well, as I said in my statement, Mr. Chairman, the point was to attempt to identify those people whose jobs did not require access to classified information and yet, because they had a clearance, it gave them such access. You know, if the rules were being followed, they would not obtain such access, because they would not have legitimate need to know, in terms of performing their job.

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Unfortunately, the fact that a person has a clearance, often means that he gets access, or is exposed to information, whether he has a need to know it or not.

Mr. NICHOLS. In recent months, and I have had Mr. Fleshman and other members of my staff visit a number of Defense contractors to look into this specific issue that we are addressing here today, they have reported to me that, while rigid physical security controls seem to be in place at most facilities, other facilities have after-hours access, and virtually no controls over reproduction equipment. How are these problems being addressed?

Mr. SNIDER. Well, both of the problems you referred to were also pointed out to us in a report regarding the Industrial Security Program that we had commissioned in August, about 2 years ago. What we have decided to do, is require each company in the Industrial Security Program, to adopt its own procedures to control both after-hours access and access to reproduction equipment. They will have to write such controls into the company's security procedures or standard operating procedures, and we will inspect them—our inspectors will look at those procedures to determine if they are adequate, in terms of that particular company's needs.

Mr. NICHOLS. Mr. Carney.

Mr. CARNEY. Thank you, Mr. Chairman. I am somewhat concerned that, in your testimony, you seem to say that you have reached your goal of 10 percent, and you are going to stop there, and you speak of quotas. I think that flies in the face of what we had said before. We have a delicate balance that we have to find, and by making arbitrary quotas, we are not going to do that. You know, we very well could eliminate more than we should. I kind of doubt that at 10 percent that would happen; but, you know, I am wondering, are we doing more of an analysis? How much effort went into coming up with the 10-percent number?

Mr. SNIDER. Well, that number was arrived at, I would say, as an educated guess, more than anything else, an estimate. There were no accurate figures, in terms of how many people had clearances, but really did not require access. In fact, if you had a clearance, you were presumed to have a need for access. I think the 10-percent figure was really lower than what we thought existed in the field. We thought we could safely reduce 10 percent without harming the performance of any DOD activities or functions. But, we always recognized that there would be some companies that would not be able to reduce 10 percent, and some Defense components that would not be able to reduce that much. So, we were setting 10-percent as a goal for ourselves, but recognizing we had to be flexible at the same time.

Mr. CARNEY. At this point, though, it seems, from listening to your testimony, that you have reached the 10 percent, and now you are going to sit back and say, well, we have taken care of Cap Weinberger's press release.

Mr. SNIDER. No; I would not say we are going to sit back. As I pointed out, part of his direction, in addition to reducing the numbers of existing clearances, is to reduce the number of new requests that we get in next year by 10 percent, so that——

Mr. CARNEY. How do you know what the requirement next year would be, I mean, this is what I am trying to establish. If you are

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going to reduce the numbers by 10 percent, how do you know what our requirement will be?

Mr. SNIDER. Well, it may turn out that our requirements do not allow us to reduce by 10 percent. If our operational requirements do not, then the policy would be, we clear the number we need to. I think you have to treat that as an overriding consideration. Reductions, just to achieve reductions, have to give, as I say in my statement, to the overriding Defense mission, including the performance of contracts.

Mr. CARNEY. Can I have that number back again, as to how many people you have that conduct investigations?

Mr. SNIDER. Conduct investigations? It is 1,555, as I recall, investigators that DIS has as street agents.

Mr. CARNEY. How long does the average investigation take?

Mr. SNIDER. Mr. O'Brien, I will defer to you on that.

Mr. O'BRIEN. Thanks. Well, right today, our average time, from the date the investigation is open until it is closed, is running right about 90 days. It is too long. That is a factor of the backlog that we have. Our goal is to accomplish investigations within 65 days.

Mr. CARNEY. And you have 1,555 doing that?

Mr. O'BRIEN. Yes, sir; approximately.

Mr. CARNEY. Do you get assistance from any other area, like private investigators, or——

Mr. O'BRIEN. No; we do not use private investigators, but on those cases that involve overseas coverage, the military departments provide assistance. DIS does not have investigative resources abroad.

Mr. CARNEY. Thank you. Thank you, Mr. Chairman.

Mr. NICHOLS. Mr. Kasich.

Mr. KASICH. Mr. Snider, what are your feelings about the statement made by Mr. Doll, about the statement of policy about what we ought to do to reduce, first of all, the number of classified documents, and then, of course, the number of people?

Mr. SNIDER. Well, I did not find much to argue with. I think there is no disagreement that we ought to reduce the numbers of classified documents. We would like to limit those to those we absolutely need. But, the trick is to accomplish that, of course.

Mr. KASICH. Well, let me tell you why I am bothered by that—by the tone of your response. We all agree with that, don't we? Well, let us do it. Do you have a plan to implement any of these things? I mean, are we going to move forward to try to do something here, or are we going to come back—you know, they said they solved the spare parts problem, and Barbara Boxer shows a catalog that lists the same prices for the same things that we investigated 2 years ago. I would hate to think you would have to come back a year from now, without being able to show us memos that you have sent to the Secretary of Defense, recommending a comprehensive review and a reduction in number of personnel. If I seem to be concerned about this throughout this hearing today, it is because I am. You get Stevchenko's book, where he talks about what the Soviet Union does about trying to penetrate our system. And when you are trying to clear 205,000 people in 1 year, I am worried about it. I want to see concrete action, systematically. The Secretary of the Navy has reduced a total number of clearances by 50 percent. I

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have to believe he has a good plan to do that, and I want to know what you are going to recommend, beyond a 10-percent reduction, to do this.

Mr. SNIDER. I did not mean to imply we were not doing anything by my statement, or that it is not being addressed. As you may know, the Secretary appointed, in June, a commission headed by General Stillwell, the retired Deputy Under Secretary for Policy, to review the entire Defense Department security structure, from stem to stern. It is a very high-level commission. They are going to be making recommendations to the Secretary at the end of October. We have contributed almost 40 different initiatives from our office to that commission. Again, tightening up such things as distribution of documents, the way they are stored, the volume that is stored, trying to pare down those that now have access, dealing with the kinds of problems that you and I are concerned about.

Mr. KASICH. Well, let me ask you this. In light of these recommendations that you have made, how many fewer people will you need next year because of it, and how many fewer pieces of documents will not be classified this way?

Mr. SNIDER. Well, I think at this point it is impossible to say. It is impossible to say what effect, in terms of the——

Mr. KASICH. Well, how many pieces of information classified today will not be classified next year, on the basis of your recommendation?

Mr. SNIDER. Well, in terms of those actions that are being taken in the Defense Department that require original classification, I am not so sure that you will see a decided increase. What we want to get at are the copies of those documents that are made, the storage of those documents, where they are not needed. Where there is no reason for the Department to——

Mr. KASICH. How many fewer documents will be stored next year, as a result of implementation of your suggestions?

Mr. SNIDER. Well, again, if they are implemented, I could not say. I would suspect the numbers would be in the millions of documents—classified material that is now held in safes, somewhere in the Defense Department, or in their contractors' that are unnecessarily being maintained. That is what we would like to eliminate.

Mr. KASICH. As a result of implementing your plans next year we are going to see a decrease in the number of classified documents, and a decrease in the number of people who are applying for clearances.

Mr. SNIDER. I would certainly hope that is the case.

Mr. NICHOLS. Mr. McCloskey.

Mr. MCCLOSKEY. No questions.

Mr. NICHOLS. All right. Just one question. You heard the Small Business people complain that there is no provision. Is that a real concern, and should we address it now?

Mr. SNIDER. Well, I think we have taken care of it. I think it was a concern in the beginning, and a legitimate concern of the small business. Some of them just simply could not meet the 10-percent reduction, for some of the reasons that have already been stated. They were just too small to take that kind of a reduction. There were growing firms that needed new employees. We have instructed our people in the field, where that is the case, not to hold them

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to the 10-percent reduction, and to grant an exception. We hope that is working. That is the guidance to the field.

Mr. NICHOLS. Thank you. We appreciate your testimony very much.

TRIDENT PHOTOGRAPHS

Our final item on the agenda today involves a very sensitive issue on the *Trident* photographs.

During the subcommittee's investigation into the procurement-related activities of the General Dynamics Corp., the subcommittee staff conducted lengthy discussions with Mr. Veliotis, a former official of that corporation, at his home in Athens, Greece. Mr. Veliotis is a Federal fugitive, wanted in connection with alleged kickbacks from the Frigitemp Corp. while he was general manager of the Quincy Shipyard.

According to Mr. Veliotis, in February of 1983, at a time when he was no longer employed by General Dynamics, and did not have a security clearance, he was given a third-quarter 1982 Strategic Review Report, which contained 12 photographs of the interior cross-sections of the Trident submarine. These photographs depicted the size of piping, gauges, consoles, and other technology, which if placed in the hands of the wrong people, according to Mr. Veliotis, could cause grave damage to our submarine program. Mr. Veliotis provided the report to a reporter from the Washington Post who, in turn, gave it to the Navy. The Navy has examined the photographs, which were contained in this unclassified document. Their assessment is that most of the photographs should have been properly classified and dissemination controlled. Mr. Veliotis further told the staff that Mr. Fritz Tovar, the general manager of the Electric Boat Yard, was responsible for preparation of this document, and its distribution at a corporate headquarter's meeting in St. Louis, where he openly discussed the report. It is the subcommittee's understanding that an unknown number of reports were prepared and disseminated.

We are here today to examine the procedures for classification of photographs of Electric Boat, the review process, and the details of this particular episode. We will hear testimony first from Mr. Fritz Tovar, general manager of Electric Boat. We will then hear from Rear Adm. J.H. Webber, Vice Commander of the Naval Sea Systems Command, who is accompanied by Mr. Jack Guddalia, director of the Naval Intelligence Service.

Mr. Tovar.

STATEMENT OF FRITZ TOVAR, GENERAL MANAGER, ELECTRIC BOAT DIVISION, GENERAL DYNAMICS CORP.

Mr. NICHOLS. Will you introduce your other witness?

Mr. TOVAR. Yes, sir, I will. Mr. Chairman, and members of the subcommittee, my name is Fritz Z. Tovar. I am the general manager of Electric Boat Division of General Dynamics.

Mr. NICHOLS. Mr. Tovar, before you proceed, sir, I notice you have a statement here. Do you have an unclassified statement?

Mr. TOVAR. No, sir. I have the classified statement, of which you have a copy.

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Mr. Nichols. Mr. O'Brien, the staff advised me we will have to go into an executive session before we can hear Mr. Tovar's statement. Why don't you give us your statement first, please.

Mr. CARNEY. Could someone explain to me why this is a classified document, and who classified it confidential?

Mr. TOVAR. The first piece of paper, a letter from Admiral Fowler, came to Mr. Lewis, the chairman of the board for General Dynamics, as a classified document. Any reference to that letter, from that day on, has to be classified. That is why my document is classified, sir.

Mr. CARNEY. Thank you.

Mr. NICHOLS. Mr. O'Brien.

STATEMENT OF THOMAS J. O'BRIEN, DIRECTOR, DEFENSE INVESTIGATIVE SERVICE, DEPARTMENT OF DEFENSE

Mr. O'BRIEN. Mr. Chairman, I am pleased to have this opportunity to appear before this committee to report on the administration of industrial security at the General Dynamics Corp. By way of background, I would like to point out that the Defense Investigative Service has two primary responsibilities. First, we conduct all of the personnel security investigations for the Department of Defense. These investigations are the necessary prerequisite for the issuance of a security clearance. The investigations involve military, DOD civilian and industrial personnel.

Our second major responsibility is the administration of the Defense Industrial Security Program. The purpose of this program is to ensure that classified information, in the hands of defense contractors, is properly safeguarded. Today, there are approximately 14,000 cleared facilities for which we provide security administration. In June of this year, these facilities employed approximately 1.4 million people with clearances.

Our routine oversight of cleared contracts, such as the General Dynamics Corp., consists primarily of regularly scheduled inspections of each of these cleared facilities. In fiscal year 1985, we will accomplish approximately 22,000 inspections. During the course of these inspections, we review the procedures and the operations to ensure that the contractor has in place a system, in accordance with the industrial security manual, that provides for the proper handling and safeguarding of classified materials. We direct particular attention to ensure that all cleared people understand their security responsibilities and are properly carrying them out. Our inspections are conducted on either a 6- or 9-month schedule, depending on the level of classified information involved. Over 12 percent of our inspections are done on an unannounced basis.

The degree of effort which goes into an inspection varies with the size and complexity of the facility being inspected. For example, at small facilities, one industrial security representative could complete the inspection in the course of several hours. On the other hand, at large facilities, the inspection team might consist of eight to ten industrial security representatives, who would spend 2 weeks, or sometimes longer, at the facility.

Now let me turn to General Dynamics. I recognize that the primary focus of this portion of the hearing is the issue surrounding

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the unauthorized release of classified photographs of the Trident submarine. I would like to address DIS' involvement in this issue, in the context of an overall assessment of the corporate-wide General Dynamics security posture.

In October of 1984, our inspection at the General Dynamics Convair Division in San Diego found a number of major deficiencies, and we rated the facility unsatisfactory. This rating is assigned when conditions exist that a facility has lost, or is in imminent danger of losing, its ability to adequately safeguard classified information. The conditions which warranted this unsatisfactory rating were corrected, and the facility clearance was subsequently reinstated to a satisfactory rating.

In December of 1984, we initiated an investigation into the unauthorized disclosure of sensitive, internal Army classified information at the General Dynamics Pomona Division in Pomona, CA. We also found culpability at the General Dynamics facility in Rockaway, NJ. As a result of this effort, the clearances of several General Dynamics employees, including the manager of the Rockaway facility, were suspended. Subsequently, General Dynamics terminated five employees for their involvement in this incident.

In February of 1985, Deputy Secretary Taft directed the Defense Investigative Service to conduct a comprehensive review of the security programs at all General Dynamics facilities, the particular emphasis on Electric Boat.

Inspections were conducted at 50 General Dynamics cleared facilities. During the course of these inspections, we placed special emphasis on the areas of adverse information reporting, receipt of unauthorized classified material, classification management, public release, and the number of people cleared at each facility.

On April 12, we submitted our report to the Deputy Secretary of Defense. Our overall assessment of the General Dynamics Security Program corporate-wide is satisfactory. However, there is room for improvement, and we have particular concern with regard to the obtaining of classified information in an unauthorized manner.

By way of detail, these inspections resulted in a finding of 11 facilities with no deficiencies, 28 facilities with minor deficiencies, and 10 facilities with major deficiencies. A major deficiency is a system failure, or a situation where a recurrence or continuation could logically lead to the loss or compromise of classified information. At these 10 facilities, there were 10 major deficiencies which were the result of individual failures, and seven deficiencies which resulted from system failures. Overall, a satisfactory rating was given to 49 of the facilities. One facility, Rockaway, NJ, was rated unsatisfactory.

Subsequent to our overall review, we assigned an unsatisfactory rating to the General Dynamics Washington Liaison Office. This facility was declared unsatisfactory, because we discovered that it had obtained and dispatched to other General Dynamics facilities, classified budget documents, which had been for internal DOD use only. The General Dynamics' Washington office had obtained these documents in an unauthorized fashion.

By way of summary, I would highlight our overall findings of General Dynamics, corporate-wide, as follows:

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Over a period of time, several General Dynamics quarterly reivews, prepared by the Electric Boat Division, and used for internal purposes, were neither marked nor protected as classified. These documents were subsequently disseminated outside of General Dynamics in an unauthorized manner. Our inspection at the Electric Boat Division revealed that the contractor would routinely mark photographs of submarines, in various stages of construction, as being "For Official Use Only." This was done routinely without an appropriate classification review. Our inspection revealed basic weaknesses in the classification review process at Electric Boat. There was no centrally directed or controlled classification management system, and the contractor's approach to this problem was fragmented and nonstandard. As a result of our findings, Electric Boat has established an extensive listing of photographic subject areas which were in need of classification review. They have also established a security review committee, which is now performing classification review on all existing photographs which may be improperly marked. All future photographs are being reviewed by the cognizant department, with coordination with either the Naval Nuclear Propulsion Information Control Office, or the Submarine Technology Review Committee, as appropriate. Our most recent inspection of Electric Boat, which we completed just last Friday, confirms that this corrective action appears to be appropriate. We plan to place continuing emphasis on this area, and to work with the contractor in refining and improving upon this system.

It is important that we understand that the issues involved go well beyond the effectiveness of any system the contractor may develop. The assignment of security classifications is a very difficult area. The nature of the technology involved in submarine construction, coupled with the industrial environment of a shipyard, creates a very unique problem at facilities such as Electric Boat. The issues are very complex. We in DIS work with both the contractor and the Navy to assist in resolving some of the issues that arise. It must be recognized that an effective classification review process is the essential first step in ensuring that violations, such as those involved in the Trident photos, do not reoccur.

The second area that we want to stress is that General Dynamics, overall, has a good adverse information reporting system. However, the company did not follow their own procedures in the Lester Crown and Veliotis cases. They have comprehensive written procedures, and employee awareness of the requirements is reasonably good, for the most part. One facility was cited, because the facility security supervisor, who was newly appointed, was not aware of the requirement, and did not make reports in three instances where it would have been appropriate. Another facility, the Electric Boat Division, has, overall, a good reporting system, but they have not been reporting court ordered wage attachments or tax levies against employees' wages. For this failure, they were cited with a major deficiency.

The third area, we found two separate instances where General Dynamics employees had obtained classified documents that were intended for internal DOD use only. As mentioned earlier, as a result of one of these instances, the Rockaway, NJ, facility was declared unsatisfactory, and five General Dynamics employees were

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terminated by the company for their involvement. In the other case, the Washington Liaison office has been rated unsatisfactory. We are currently conducting an inquiry into this matter.

This completes my formal remarks. I will be very happy to respond to your questions.

PREPARED STATEMENT OF THOMAS J. O'BRIEN

Mr. Chairman: I am pleased to have this opportunity to appear before this committee to report on the administration of industrial security at the General Dynamics Corp. By way of background, I would like to point out that the Defense Investigative Service has two primary responsibilities. First, we conduct all of the personnel security investigations for the Department of Defense. These investigations are the necessary prerequisite for the issuance of a security clearance. Investigations involve military, DOD civilian, and industrial personnel. This year we will complete approximately 205,000 investigations.

Our second major responsibility is the administration of the Defense Industrial Security Program. The purpose of this program is to ensure that classified information in the hands of defense contractors is properly safeguarded. Today, there are approximately 14,000 cleared facilities for which we provide security administration. In June of this year these facilities employed approximately 1.4 million people with clearances.

Our routine oversight of cleared contractors such as General Dynamics consists primarily of regularly scheduled inspections of each cleared facility. In fiscal year 1985 we will accomplish approximately 22,000 inspections. During the course of these inspections, we review the procedures and the operations to ensure that the contractor has in place a system in accordance with the Industrial Security Manual that provides for the proper handling and safeguarding of classified material. We direct particular attention to ensure that all cleared people understand their security responsibilities and are properly carrying them out. Our inspections are conducted on either a 6 or 9-month schedule depending on the level of classified information involved. Over 12 percent of our inspections are done on an unannounced basis.

The degree of effort which goes into an inspection varies with the size and complexity of the facility being inspected. For example, at small facilities one industrial security representative would complete the inspection in the course of several hours. On the other hand, at large facilities the inspection team might consist of 8 to 10 IS reps who would spend two weeks, or sometimes longer, at the facility.

Now let me turn to General Dynamics. I recognize that the primary focus of this portion of the hearing is the issue surrounding the unauthorized release of classified photographs of the Trident submarine. I would like to address DIS' involvement in this issue in the context of an overall assessment of the corporatewide General Dynamics' security posture.

In October 1984, our inspection at the General Dynamics Convair Division in San Diego found a number of major deficiencies, and we rated the facility unsatisfactory. This rating is assigned when conditions exist that a facility has lost, or is in imminent danger of losing, its ability to adequately safeguard classified information. The conditions which warranted this unsatisfactory rating were corrected, and the facility clearance was subsequently reinstated to a satisfactory rating.

In December 1984, we initiated an investigation into the unauthorized disclosure of sensitive, internal Army classified information to the General Dynamics Pomona Division in Pomona, CA. We also found culpability at the General Dynamics facility in Rockaway, N.J. As a result of this effort the clearances of several General Dynamics' employees, including the manager of the Rockaway facility, were suspended. Subsequently, General Dynamics terminated five employees for their involvement in this incident.

In February 1985, Deputy Secretary Taft directed the Defense Investigative Service to conduct a comprehensive review of security programs at all General Dynamics' facilities, with particular emphasis on the Electric Boat Division.

As a direct result of this tasking, inspections were conducted at all 50 General Dynamics' cleared facilities. During the course of these inspections we placed special emphasis on the areas of adverse information reporting, receipt of unauthorized classified material, classification management, public release, and the number of people cleared at each facility.

On April 12 we submitted our report to the Deputy Secretary of Defense. Our overall assessment of the General Dynamics' security program corporatewide is sat-

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isfactory. However, there is room for improvement, and we have particular concern with regard to the obtaining of classified information in an unauthorized manner.

By way of detail, these inspections resulted in a finding of 11 facilities with no deficiencies, 28 facilities with minor deficiencies, and 10 facilities with major deficiences. A major deficiency is a system failure or a situation where a recurrence or continuation could logically lead to the loss or compromise of classified information. At these 10 facilities, there were 10 major deficiences which were the result of individual failures, and 7 deficiencies which resulted from system failures. Overall, a satisfactory rating was given to 49 of the facilities. One facility, Rockaway, NJ, was rated unsatisfactory.

Subsequent to our overall review, we assigned an unsatisfactory rating to the General Dynamics' Washington liaison office. This facility was declared unsatisfactory because we discovered that it had obtained and dispatched to other General Dynamics' facilities classified budget documents which are for internal DOD use only. The General Dynamics' Washington office had obtained these documents in an unauthorized fashion.

By way of summary, I would highlight our overall findings of General Dynamics corporatewide as follows:

A. SYSTEMATIC FAILURE OF CLASSIFICATION MANAGEMENT AT ELECTRIC BOAT

Over a period of time several General Dynamics' quarterly reviews, prepared by the Electric Boat Division and used for internal purposes, were neither marked nor protected as classified. These documents were subsequently disseminate outside of General Dynamics in an unauthorized manner. Our inspection at the Electric Boat Division revealed that the contractor would routinely mark photographs of submarines in various stages of construction as being For Official Use Only (FOUO). This was done routinely without an appropriate classification review. Our inspection revealed basic weaknesses in the classification review process at Electric Boat. There was no centrally directed or controlled classification management system, and the contractor's approach to this problem was fragmented and nonstandard. As a result of our findings, Electric Boat has now established an extensive list of photographic subject areas which were in need of classification review. They have also established a security review committee which is now performing classification review of all existing photographs which may be improperly marked. All future photographs are being reviewed by the cognizant department with coordination with either the NNPI Control Office or the Submarine Technology Review Committee, as appropriate. Our most recent reinspection of Electric Boat, which was completed last Friday, confirms that this corrective action appears to be appropriate. We plan to place continuing emphasis on this area and to work with the contractor in refining and improving even more upon this system.

It is important that we understand that the issues involved go well beyond the effectiveness of any system the contractor may develop. The assignment of security classifications is a very difficult area. The nature of the technology involved in submarine construction, coupled with the industrial environment of a shipyard, create very unique problems at facilities such as Electric Boat. The issues are very complex. We in DIS work with both the contractor and with the Navy to assist in resolving some of the issues that arise. It must be recognized that an effective classification review process is the essential first step in ensuring that the violations, such as those involved in the Trident photos, do not reoccur.

B. ADVERSE INFORMATION

General Dynamics has a good adverse information reporting program. However, the company did not follow their own procedures in the Lester Crown and P. Takis Veliotis cases. They have comprehensive written procedures, and employee awareness of the requirement is reasonably good, for the most part. One facility was cited for not being aware of the requirement and not making reports in three instances where it would have been appropriate. Another facility, the Electric Boat Division has a good reporting system, but they have not been reporting court ordered wage attachments or tax levies against employees' wages—for this failure, they were cited with a major deficiency.

C. RECEIPT OF UNAUTHORIZED MATERIAL

We found two separate instances where General Dynamics' employees had obtained classified documents that were intended for internal DoD use only. As mentioned earlier, as a result of one of these instances, the Rockaway, NJ, facility was

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declared unsatisfactory, and five General Dynamics' employees were terminated by the company for their involvement. In the other case, the Washington liaison office has been rated unsatisfactory. We are currently conducting an inquiry into this matter.

This completes my formal remarks. I will be happy to respond to your questions. Thank you.

Mr. NICHOLS. Thank you, Mr. O'Brien. You brought this committee a record of very many shortcomings. I assume that we have Government personnel with security responsibilities, who are presently at Electric Boat. I assume these people were there when all of these transgressions occurred. The question is, why didn't these people know Electric Boat's practices of not properly classifying photographs?

Mr. O'BRIEN. We do not have people from the Defense Investigative Service at Electric Boat on a continuing basis. We conduct inspections at Electric Boat every 6 months. We go in with a team of people, and they will spend approximately 2 weeks in the facility going over these things.

Mr. NICHOLS. And these were not disclosed on that 2-week stay?

Mr. O'BRIEN. On a continuing basis, we have found serious problems in the security at Electric Boat. We continue to work with the company in an effort to correct these problems.

Mr. NICHOLS. You stated that over a period of years, General Dynamics quarterly reviews were neither marked nor protected as classified. How long has this practice been going on? It seems to me that, if damage was done to national security in one of these areas, I have to ask about the other areas.

Mr. O'BRIEN. Concerning the photographs, we came across a system that was wrong. We had not identified that previously. The system was that during the course of the construction of submarines, there is a requirement to take a number of photographs at various stages of the process. The company did not have in effect a system to review those photographs for classification. They just routinely marked them "For Official Use Only." We did not find that before. We did correct it when we found it last spring. We have now corrected that situation.

Mr. NICHOLS. My staff tells me that the Navy does have a large staff—a large team at Electric Boat on a permanent basis.

Mr. O'BRIEN. Yes, sir. You would have to ask the Navy people about that. I am sure they do. As for the Defense Investigative Service, which conducts the industrial security inspections, we are not in residence.

Mr. NICHOLS. All right. We will leave that to the Navy.

Mr. Carney.

Mr. CARNEY. Mr. O'Brien, in your testimony, you talked about people going around to various plants—your investigative teams. Do they make up the 1,550 that we talked about?

Mr. O'BRIEN. These are industrial security representatives. They are different people. They are schooled and expert in industrial security administration. We have about 260 industrial security representatives that inspect these facilities for security compliance.

Mr. CARNEY. Thank you. In your statement, you indicated that there was an unsatisfactory rating provided to the Pomona Division of GD, and to the General Dynamics facility in Rockaway, NJ,

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for unauthorized disclosures of sensitive and internal Army classified information. As a result of it, the clearances of several General Dynamics employees were suspended, correct?

Mr. O'BRIEN. That's right.

Mr. CARNEY. And subsequently, five employees were terminated by GD for their involvement in that incident. Is that correct?

Mr. O'BRIEN. Yes, sir.

Mr. CARNEY. In addition, you said that you found the Washington liaison office of General Dynamics to be unsatisfactory, because it had obtained classified budget documents which were for internal DOD use only, is that correct?

Mr. O'BRIEN. Yes, sir.

Mr. CARNEY. Are you at liberty to say what those documents are?

Mr. O'BRIEN. The documents are program objective memorandum [POM], that are prepared by the Office of the Controller of the Department of Defense——

Mr. CARNEY. They would be the same POMS that this Congressman, as a member of this committee—the Armed Services Committee, cannot get?

Mr. O'BRIEN. And the company should not have gotten them.

Mr. CARNEY. Yet General Dynamics, in the Washington office, had the POM?

Mr. O'BRIEN. Yes, sir, they did.

Mr. CARNEY. But they had to get that POM from someone in the Pentagon, I would assume. Either that, or they have a key to the Pentagon. One or the other.

Mr. O'BRIEN. We have had an ongoing investigation in trying to attempt to find out just how they got that. I really do not want to go into that any further at this point——

Mr. CARNEY. I can appreciate that. That is why I asked you if you could say what the documents are. I do not know if I should congratulate them or not. I have tried to get some information out of the POM in carrying out my job as a member of this committee, and could not get it. That is of great concern to me.

Are you aware of the GTE situation, where they recently negotiated an agreement with the Department in a situation which seems to be identical?

Mr. O'BRIEN. Yes, I am aware of it. There are very close parallels.

Mr. CARNEY. Then can you tell me what distinguishes the two situations. There must be some differences, because they were handled differently. Is that not correct?

Mr. O'BRIEN. Well, the GTE situation has progressed through the Department of Justice from a criminal law standpoint. As you know, there have been several indictments issued, and the company pleaded guilty to certain crimes.

Mr. CARNEY. Again, we are dealing in a sensitive area here, and I want to be very, very careful. Is it because of the ongoing investigation that there seems to be a difference of approach? The approach might very well be the same when all is said and done?

Mr. O'BRIEN. Yes, sir.

Mr. CARNEY. Thank you.

Mr. NICHOLS. Mr. McCloskey.

Mr. MCCLOSKEY. No questions, Mr. Chairman.

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Mr. CARNEY. Mr. Chairman, may I ask one other question?

Mr. NICHOLS. Certainly. Go ahead.

Mr. CARNEY. Thank you. Concerning suspending classification on someone while there is an investigation going on and that type of thing let me apply this to the General Dynamics situation with their Washington office. Have any steps been taken regarding the unsatisfactory rating of that office?

Mr. O'BRIEN. Well, we have rated the facility here in Washington as unsatisfactory. We have not taken suspension action on any personnel, because we have yet to find out who is responsible. We do not yet have enough information to do that.

Mr. CARNEY. Can I assume that there are people in that office who have security clearances?

Mr. O'BRIEN. Yes, sir.

Mr. CARNEY. And they have access to documents on a need-to-know basis?

Mr. O'BRIEN. Yes, sir.

Mr. CARNEY. Do I assume that their clearances are still active and have not been suspended?

Mr. O'BRIEN. Because we do not yet know which ones are responsible. I really do not want to get further into that area at this point.

Mr. CARNEY. I appreciate precisely what you are saying, and I will, at this point yield back, because of the sensitivity.

Mr. NICHOLS. Thank you, sir. Thank you, Mr. O'Brien. We appreciate your testimony.

Mr. O'BRIEN. Thank you.

Mr. NICHOLS. Mr. Tovar, we have a vote coming up. So, we would like to proceed in this manner: we will take a 5-minute recess and go vote. Then, when we come back, the Chair would like to depart a little bit from our normal procedure and ask you some questions, and you may reply or not reply to anything you feel is confidential or classified. Then, at the conclusion of those questions, we will go into executive session for your report to us.

[Whereupon, a short recess was taken.]

Mr. NICHOLS. The subcommittee will come to order. Mr. Tovar, is it your understanding that documents and photographs, intended for use within the corporation, and not released to outside personnel, need not be submitted to the Navy for classification review?

STATEMENT OF FRITZ TOVAR—Continued

Mr. TOVAR. Sir, our interpretation at that time was that the photographs need not be classified, and therefore, we have made no attempt to have them screened by the Navy. There is practice at the Electric Boat, that only documents which are used externally, in other words, photographs that we give to reporters who look to see a submarine, or to see some other facilities, that they are being submitted to the Navy for clearances before we give them outside the facility.

Mr. NICHOLS. Does that mean that the documents are not classified, or just not reviewed?

Mr. TOVAR. They are reviewed, sir.

Mr. NICHOLS. They are reviewed.

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Mr. TOVAR. Yes, sir.

Mr. NICHOLS. Would you explain under what circumstances you used the quarterly report that has been referred to; how many were printed, how many were recovered, and where are the rest of them? We do not think that is a classified question.

Mr. TOVAR. No, sir; it is not. But before I get into that, may I introduce Donald Steamer. He is the director of design engineering, and I brought him with me, instead of a security officer, who is familiar with the classification of documents. He is, unfortunately in Europe, on vacation, so I brought Mr. Steamer with me, and he hopefully can answer most of your questions, sir.

Mr. NICHOLS. All right.

Mr. TOVAR. As far as the documents, or the use of this document is concerned, they are put together by our Strategic Planning Department, and I use them to inform the corporation, on a quarterly basis, of our status of business in that particular year, and also to give a forecast of the next 5 years of business we plan, and we intend to do. And, to emphasize on particular issues, and especially going back to the photographs, we have changed the concept of submarine construction. I felt it was best illustrated by showing photographs instead of bringing drawings and/or make long explanations for nontechnical people. These have been, in my opinion, very effective. I have used this and similar photographs, also when I go—come here to Washington, and brief Navy people of the progress Electric Boat is making in implementing this new and more efficient way of building submarines.

Mr. NICHOLS. How many did you print?

Mr. TOVAR. That is not clear, sir. That is my problem. There is approximately, I would say, anywhere from 17 to 20. Maybe even up to 25 copies have been printed of that—or have been printed at a time.

Mr. NICHOLS. How many have been recovered?

Mr. TOVAR. I cannot answer that either, sir. But I know that every copy which is in-house, in the corporation, as well as in the division, has been accounted for.

Mr. NICHOLS. And is it your judgment that, as you say, "a picture is worth a thousand words," you were trying to get this across rather than technical data—is it your opinion that whatever details may appear in these photographs did not need to be classified?

Mr. TOVAR. The way our trained people interpreted the rules and regulations at that time, we felt they did not have to be classified. Of course, that has changed, with a letter Admiral Fowler wrote in February 1983. I believe it was—sorry, 1985, to the chairman, Mr. Lewis, where he criticized Electric Boat that these pictures should have been classified. From that moment on, every picture is classified.

Mr. NICHOLS. OK. Would you generally explain Electric Boat's classification procedure for those photographs at the time they were disseminated, and then tell us how that has changed—in 1985; and how you do it currently.

Mr. TOVAR. I would rather answer that question, sir, under closed session.

Mr. NICHOLS. All right. That is fine, sir.

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The report that you say you made 16 to 20 copies of, did you provide a copy of that report to Mr. Veliotis?

Mr. TOVAR. No, sir; I did not.

Mr. NICHOLS. To the best of your knowledge, who gave it to Mr. Veliotis?

Mr. TOVAR. I do not know, sir.

Mr. NICHOLS. Who did these copies go to, within the company?

Mr. TOVAR. We usually send a dozen or so copies ahead of the quarterly review meeting to the corporation, and they are being distributed over there to every senior vice president. And also, key officers at Electric Boat get advanced copies to comment, especially within their department, on the accuracy and validity of the documents and of the statistics we have in this quarter. I have—after the quarterly review meetings, these documents are being—and that is the case, now—are being recollected. Every copy, right now, from now on, or from the day I got the letter—the copy of the letter from Admiral Fowler, every document is numbered, and every recipient has to sign for the documents, and so we have very strict control over each of the documents.

Mr. NICHOLS. Did the Navy, or any other government personnel, to your knowledge, ever view these photographs and make any indication as to, in their judgment, whether they should be or should not be classified?

Mr. TOVAR. The Navy has viewed such photographs, yes.

Mr. NICHOLS. Prior to release?

Mr. TOVAR. Yes, sir; but here again, may I ask that I answer these questions and elaborate on that in closed session?

Mr. NICHOLS. That is certainly agreeable.

I only have two other questions. In April of this year, at the time this subcommittee was talking with Mr. Veliotis in Greece, you told staff that photographs, in your opinion, should not be classified, because in your judgment they did not reveal depth, speed, or other operational capabilities of the submarine. Do you still adhere to this position?

Mr. TOVAR. The way I interpret, sir, but I am not an expert—the way I interpret the rules and regulations, I still feel today that they should not be classified.

Mr. NICHOLS. May I pose that same question to the engineer?

Mr. STEAMER. Could we handle that one after we close the session?

Mr. NICHOLS. Finally, can you provide the subcommittee with results of your corporate investigation of this matter?

Mr. TOVAR. I would like to answer that, too, in the closed session.

Mr. NICHOLS. Mr. Fleshman.

Mr. FLESHMAN. Mr. Chairman, I have a copy of the third quarter report, here. I would like to have it placed in the record, in open session, that yesterday I talked with Mr. Andy Holding, a reporter whom I have dealt with and, who is a nemesis to General Dynamics to some extent at the Electric Boat Division. He indicated to me that he is familiar with the photographs in this report. He also told me that, if standing near or on an old pier near Electric Boat, also in his channel 8 helicopter, flying in unrestricted airspace near the yard, he can take pictures and view many of the portions of the submarine that are depicted in these photographs. I did want to

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provide that, for the record, and I am just curious, at this point, and the subcommittee may wish to look into why, all of a sudden, there is an urgent need for obfuscation of construction activities of the Trident submarine, when these activities have been going on for some time at Electric Boat. The subcommittee may wish to explore that further in closed session.

Mr. NICHOLS. Do you have any questions?

Mr. CARNEY. Mr. Chairman, I have no questions.

Mr. NICHOLS. At this point, without objection, the subcommittee is going to go into closed session. I will ask all those in the room who do not have clearance to please absent themselves.

[Whereupon, at 12:53 p.m., the subcommittee went into closed session.]

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